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BASIC WORKWEEK OF FEDERAL FIREFIGHTERS

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 2748

A BILL TO AMEND TITLE 5, UNITED STATES CODE, TO IMPROVE THE BASIC WORKWEEK OF FIREFIGHTING PERSONNEL OF EXECUTIVE AGENCIES, AND FOR OTHER PURPOSES

SEPTEMBER 14, 1979

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BASIC WORKWEEK OF FEDERAL FIREFIGHTERS

FRIDAY, SEPTEMBER 14, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HUMAN RESOURCES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:37 a.m., in room 311, Cannon House Office Building, Hon. Herbert E. Harris II (chairman of the subcommittee) presiding.

Mr. HARRIS. The subcommittee will come to order.

Today the subcommittee is considering H.R. 2748, a bill which I introduced to improve the workweek of Federal firefighters. There are approximately 11,500 Federal firefighters in all but a dozen or so States in the country. The Defense Department is the largest employer of firefighters with approximately 10,500, and the VA, Department of Transportation, NRC, and other agencies employ the remainder.

Firefighting personnel provide important protection for many Federal installations, standing guard at defense bases, at veteran hospitals, some civilian airports, and other Federal establishments. While some would like to portray the firefighter as one who stands, or sits, or lays idle much of the time, firefighters actually have a variety of duties, including fire prevention and other fire suppression-related services.

A Federal firefighter must maintain a proficiency in a variety of subjects ranging from the combustibility of materials to general air traffic control techniques. Federal firefighters are subject to hazards and often are required to work on Sundays and holidays. Our pay, benefits, and working-hour policies should reflect the fact that firefighters must be compensated for their knowledge, ability, and the considerable risk they incur in protecting lives and property.

The authority to fix the administrative workweek for Federal firefighters now rests with the heads of executive agencies. In most cases, Federal firefighters have a regularly scheduled workweek of 72 hours. This situation is unparalleled in municipal fire departments across the country. This bill would remedy inequity by establishing the administrative workweek for most Federal firefighters at 56 hours, creating parity with the non-Federal sector model.

Identical legislation was passed by both Chambers during the 95th Congress. The congressionally approved proposal was vetoed by the President, which was a matter of some surprise to me and some others.

In addition to that, this committee has approved the legislation in the 94th Congress, but again, basically through legislative techniques, it was not truly considered on the floor.

Today, we will be hearing from representatives of the International Association of Firefighters, the National Federation of Federal Employees, the Office of Personnel Management, and the Department of the Navy.

We are pleased to note that we have the president of the International Association of Federal Firefighters, Mr. Howard McClennan here and we call him to the witness stand.

We take great pleasure in welcoming you back to the witness table, with which I think you are somewhat familiar. We look forward to your testimony. We are pleased to have a copy of it and we will put it in the record, or you may read the whole statement. You may proceed however you wish, Mr. McClennan.

STATEMENT OF HOWARD McCLENNAN, PRESIDENT, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, ACCOMPANIED BY FRED SCHILLREFF, FIREFIGHTERS REPRESENTATIVE, WASHINGTON, D.C.; HAROLD A. SCHAITBERGER, LEGISLATIVE REPRESENTATIVE; AND WAYNE JOHNSON, PRESIDENT, FEDERAL FIREFIGHTERS

Mr. MCCLENNAN. Thank you, Mr. Chairman.

First of all, I want to thank you for giving us the opportunity to come up and present our views.

With me to my right is Fred Schillreff, the Federal Firefighters representative we have in our Washington office. To my left is our legislative representative, Harold Schaitberger; to his left is president of our Federal Firefighters, Wayne Johnson out of New Jersey.

Mr. Chairman, members of the subcommittee, my name is Howard McClennan, and I am president of the International Association of Firefighters, AFL–CIO–CLC, which represents approximately 178,000 professional firefighters throughout the country. Additionally, I serve as president of the Public Employees Department of the AFL–CIO, representing over 2 million public employees. I am also vice president of the AFL–CIO, and serve as a member of its executive council under President George Meany.

I am pleased to appear before the subcommittee today to express our organization's strongest support for H.R. 2748, providing for a 56-hour regularly scheduled administrative workweek for Federal firefighters, as well as 25 percent premium pay and full overtime pay for all hours worked in excess of 56 hours per week.

Recognizing the inequity of the current 72-hour Federal firefighter workweek, the 95th Congress passed an identical bill, H.R. 3161, with wide bipartisan support in both the House and Senate. Nonetheless, and contradicting previous statements on the issue, President Carter saw fit to veto the bill.

I would like to add right here, Mr. Chairman, that on a one-and-one meeting that I had personally with President Carter in Albany, Ga., I told him of the problem of the Federal firefighters. And I told him that I hoped that when he was President that if we were able to get the bill on his desk that he would sign it. He expressed complete amazement of the fact that in this day and age there

were people working a 72-hour workweek, especially in the Federal Government and especially firefighters, who he said at that time, to me, he knows the job of a firefighter because he served as one during the war. And he assured me, Mr. Chairman——

Mr. HARRIS. He was a firefighter? I did not know that.

Mr. MCCLENNAN. Yes; he told me he was a firefighter on the submarine, which surprised me.

Mr. HARRIS. Damage control, probably.

Mr. MCCLENNAN. He said to me, "Mr. McClennan, get the bill on my desk, I will sign it." We all know what happened. He vetoed it. The Presidential veto had been based on several arguments with which we cannot agree, and whose conclusions we must dispute in our testimony today.

The President's first point of contention was that the legislation did not reduce premium pay for Federal firefighters, arguing that premium pay should be reduced when hours are reduced. This argument is based on a faulty understanding of current premium pay provisions.

A 56-hour workweek schedule for Federal firefighters would include working full 24-hour shifts, without regard to weekends or holidays. A typical 24-hour shift consists of 8 hours on active duty and a 16-hour period of standby status. A wide variety of duties are performed during this standby period, generally bringing the total hours of actual work up to 12 to 14 hours per day. Standby duty does include a sleep period, but this period may be interrupted not only for emergencies, but also for duties which are normally scheduled for that time period. At no time may a firefighter be away from assigned duties during the 24-hour shift.

Premium pay is paid to Federal employees in lieu of overtime, night differential, Sunday, and holiday pay. Under law, the criteria for determining eligibility for premium pay are, "the number of hours of actual work required in the position, the number of hours required in a standby status at or within the confines of the station, the extent to which the duties of the position are made more onerous by night, Sunday, or holiday work, or by being extended over periods of more than 40 hours a week, and other relevant factors * * *" (Section 5545(c)(1), Title "5", United States Code.)

The typical 56-hour workweek for Federal firefighters, as described above, meets each of these criteria more than adequately, and full premium pay is therefore justified under current law.

The President sought to support his objections to full premium pay as provided by the bill in two ways: (1) By depicting the provisions of the bill as some sort of windfall for Federal firefighters, and (2) by denigrating Federal firefighters as professionals and the duties they perform.

First, we must point out that the provisions of H.R. 3161 would have decreased the average Federal firefighter's weekly paycheck by 9 percent, from $294.44 per week to $268.22 per week—GS–5, step 4, 1978. Furthermore, comparisons between Federal firefighter locals and corresponding municipal locals revealed that municipal firefighters earned at least $500 more per year for an average 56-hour workweek, while Federal firefighters worked 33 percent more hours each week than did municipal firefighters. Under these cir-

cumstances, the depiction of the provisions of H.R. 3161 as a windfall for Federal firefighters is incomprehensible and unwarranted.

Second, the President, stating that the Federal firefighters' workweek must be considered "in light of the nature of their duty," proceeded to minimize the importance and difficulty of those duties. The general impression given is that unless actually fighting fires, the Federal firefighter sits idly by. Such a characterization of firefighting is an insult not only to the Federal firefighter, but to all professional firefighters, since it ignores the sophisticated knowledge and skills firefighters must possess for the performance of their duties and the prevention of fire.

For instance, the Federal firefighter must be an expert in fire science, allowing him to identify and understand the various classifications and qualities of combustible materials, flammable liquids, and other volatile materials, including weapons systems. Federal firefighters must familiarize themselves with the occupancies, building construction, and general use of the areas they protect, using that information to develop prefire plans identifying the proper response procedures, apparatus positioning, fire tactics, strategies, and rescue operations. They must also have a working knowledge of firefighting prevention and rescue equipment and they must be proficient in advanced first aid technique and rescue procedures. And these are just some of the areas of proficiency which Federal firefighters must display.

The President's second major objection to the legislation was that it would impair the ability of agency heads to manage the work force. Taking this reasoning to its logical conclusion, we are surprised that the President has not argued against the standard 40-hour workweek, since it, too, impairs the ability of agency heads to manage the work force.

Furthermore, by maintaining the 72-hour workweek for Federal firefighters, these same agency heads have subverted the legislative intent of the Fair Labor Standards Act and its 1974 amendments. By providing for a minimum wage and a mandatory overtime provision, the practical effect of the FLSA was to reduce the hourly workweek for millions of Ameican workers. In 1974, the IAFF fought long and hard to have our people brought under that act so that their workweek could be reduced to a level comparable to their municipal counterparts.

Shortly after the enactment of the 1974 FLSA amendments, we found ourselves subjected to an extremely unfair method of calculating overtime pay. The agencies simply divided the annual rate of compensation, including premium pay and excluding overtime pay, by the 72-hour workweek and paid overtime based on that computation. As a result, last year the average Federal firefighter received a grand total of $1.83 for each hour of overtime worked. In light of this, it is not surprising that Federal firefighters consider themselves to be underpaid and overworked.

While the President strongly objected to any impairment of agency heads in the management of the work force, he expressed no concern over the poor management decisions they make. The current 72-hour workweek has resulted in a high turnover rate among Federal firefighters, about 23 percent annually.

The Civil Service Commission has tried to minimize the negative impacts of this high turnover rate by pointing to the approximately 8,000 eligible firefighter candidates on the Civil Service register. What they fail to mention is that the entrance level for these employees is at GS-3, a trainee position requiring no firefighting experience at all. The overall effect of this high turnover rate, therefore, has been to create a Federal Government training ground for the municipal fire services.

The President's third and final objection to the provisions of H.R. 3162 was that it would require the Defense Department to hire 4,600 additional firefighters at an annual cost of $46.7 million. This statement is particularly interesting in light of the fact that Congressonal Budget Office estimates indicated that only 2,200 new Federal firefighters would be needed, at a cost of $24.3 million, governmentwide. There are two basic reasons for this discrepancy.

First, Defense Department cost estimates were based on the assumption that all of their approximately 10,500 civilian firefighters would be affected by the provisions of the bill. This assumption is incorrect, since many Federal firefighters are currently working a 40-hour week. Taking this fact into consideration, the Congressional Budget Office estimated that approximately 7,700 Federal firefighters, governmentwide, would have been affected.

Second, the Defense Department estimates included the costs of reducing the workweek for military firefighters. Such calculations were inaccurate for two reasons.

First, the provisions of H.R. 3161 in no way addressed themselves to the workweek of military firefighters, and attributing these costs directly to the legislation was therefore unwarranted.

Secondly, even if H.R. 3161 cost estimates were to include reductions in the military firefighter workweek, the DOD estimates continued to be inflated, since their calculations of these costs assumed that all military firefighters work a 72-hour week. In fact, many military firefighters work less than the 72 hours per week.

As a result of these inaccuracies, the Defense Department cost estimates for this legislation were overly inflated, nearly doubling its true cost.

H.R. 2748, which the subcommittee is considering today, is identical to the legislation vetoed by President Carter last year. We are confident that our discussion of that veto and the reasoning behind it have dispelled any reservations on the merits of the bill, and convinced this subcommittee to again lend its support to the legislation.

I would like to add 14 addendas right here.

In light of recent developments in the consideration of H.R. 111, the Panama Canal Treaty Implementation, I would like to make one additional statement.

This bill is currently in conference. The House version identifies the Panama Canal Commission as an executive agency while the Senate version makes the Commission a government-controlled corporation. If the Panama Canal Commission should be designated a corporation as a result of the conference, we would ask that the words "and the Panama Canal Commission" be added after the word "agency" on page 2, line 6 of H.R. 2748, so that those Federal

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firefighters working in the Canal Zone will be covered under the provisions of the bill.

I would like to thank you for this opportunity to express our views and opinions on this matter on behalf of our organization and its members.

Mr. HARRIS. Thank you very much for your testimony.

Do any of your cohorts there wish to add to the testimony at this time?

Mr. SCHILLREFF. Mr. Chairman, the long hard-fought battle in the last session of Congress with the feeling that the legislation would become enacted by the President's signing of that legislation was of course a shock to our organization and to our general membership.

The feelings that have transpired since that time living in the real world with that basic betrayal of trust appears to have set within the hearts of our membership that this legislation, above anything else that we could possibly bring before the Congress, should, must and absolutely needs to be implemented at the earliest possible date.

I thank you for allowing me to make that comment.

Mr. HARRIS. Thank you. I intend to be kind of—I am afraid I know I tend to be hard nosed about management decisions on wage scales and what have you. I guess I could ask you just the blunt question. If they do not like the working conditions and the pay, why don't they get a job someplace else?

Mr. MCCLENNAN. Over the years in the fire service, both State, county, municipal, Federal, no matter where it might be, we hear this all the time. We get this from management, city officials, mayors, and so forth.

Mr. HARRIS. They say why don't you go back to where you come from if you don't like it here; is that what they say?

Mr. MCCLENNAN. Right.

To me it is always a point, when did you stop beating your wife last, you know that type of thing. So I don't feel as though this is the way that management should operate. Our people don't take too kindly to that.

All of us choose a profession for one reason or another. We picked firefighting because of the challenge that it gives to a man who wants to be a firefighter. Federal firefighting, Mr. Chairman, is a dirty, dangerous job. The Department of Labor has testified that every year we lose between 80 to 90 firefighters killed in the line of duty, every year.

I don't mean a firefighter goes home and has a heart attack and dies, I mean 80 or 90 of our men are killed at the scene of the fire every year.

Mr. Chairman, since I have been president, 11 years, I have sent out 1,152 telegrams to city managers, to mayors and fire chiefs, stating I am sorry to hear of the death of firefighter John Jones, killed in the line of duty; in 11 years, 1,152 telegrams. That shows the nature of our job.

So when a man takes the job of firefighting, he knows what he is going to be up against. To me a man working for the Federal Government has to put in 72 hours, at this time, on a work job, is

almost unbelievable. They can say well, Federal firefighters are different from the city, State and municipal firefighters because of the nature of their work.

Today, based on what is going on, take Three Mile Island as an example, who knows what we are going to run into in the years ahead, especially Federal firefighters. They may be presented with problems that no city or State firefighter would ever have to face.

Mr. HARRIS. From your testimony, I glean some of them decided just exactly that, that there is from a management standpoint some problem of keeping Federal firefighters; is that correct or not?

Mr. SCHILLREFF. If you are referring to the high turnover rate which we addressed in our testimony, the problem is basically that they do have a large number of applicants, but when we refer to a Federal training ground, what normally would happen is a young person would come into the Federal firefighting force, receive his training, stay a year or two and then goes to a municipal department where they receive higher benefits and higher pay.

So it is very misleading to suggest that there really is not a problem because of the high amount of entry-applicants, because once an individual begins to really achieve the ability, it takes time and experience, more times than not they are leaving to go to better positions in State and local government.

Mr. HARRIS. Your testimony indicates, if verified, a fairly frightening conclusion. You say that one-fourth of the Federal firefighters each year leave?

Mr. SCHAITBERGER. Yes, less than 25 percent.

Mr. HARRIS. 23 percent in your testimony?

Mr. SCHAITBERGER. Yes, sir.

Mr. HARRIS. Is that a verified figure?

Mr. SCHAITBERGER. We can verify that figure.

Mr. HARRIS. From a management standpoint now, just speaking from the perspective of management, that does not sound to me like a good management practice, if in fact presumably you have your trained people leaving, basically in the method of recruiting and bringing untrained people in.

You are saying that each year 25 percent of your trained people are leaving?

Mr. SCHAITBERGER. That is correct.

Mr. MCCLENNAN. Mr. Chairman, I would like to add, I think one of the current reasons is this great talk of contracting out. A lot of our Federal firefighters already have heard this message being passed down through DOD, about contracting out fire services.

Some of them are at the age where they figure if this is going to happen, we had better make some plans to move on into the State, city and county fire departments, and if they get to that age level which is above which they can get in, they make their move before that. I think this adds greatly to the rapid turnover.

Mr. HARRIS. If you contract out, you are going to go to a 56-hour week in I would say 90 percent of the cases. This would certainly be the case in my area if they go to contracting out to private enterprise or to the municipality. There has been discussion of, for example, contract with the Arlington force for Fort Myer. I know the Arlington force, that is a 56-hour week.

Am I not correct on that?

Mr. SCHILLREFF. That is not only correct, Mr. Chairman, but the syndrome of contracting out is feared by many of the Federal firefighters to the extent of making this their career. We have entering into the Federal fire service young people, we are talking about 21 and up to less than 30 in age group. We are talking about the young people who came out of Vietnam and decided to go into the Federal fire service.

Some of these were government firefighters at one time in the Air Force or whatever service they were in. They are not interested in working for an employer who arbitrarily keeps them working longer than everybody else; 33 hours more work for 40 hours pay.

That is one of the reasons this legislation is vital. These are excellent people, they are the kind that are trainable and could be super individuals within government performing a service, but they are not going to stay.

Mr. HARRIS. Your 25 percent figure would tend to document this. But I noticed a figure that Navy, testifying for DOD, gives me is 14.8 percent in fiscal 1978. They are saying 14.8; you are saying 23.

Mr. SCHAITBERGER. We will be glad to submit, with your permission, to the committee the information and analysis which we used to base our figure on.

Mr. HARRIS. Are you saying they are wrong?

Mr. SCHAITBERGER. Yes, I would.

Mr. Chairman, if I may too, I think this problem can be even more clearly identified when one realizes that this profession in the municipal government, at that level, is normally considered a very static, low turnover profession. If one were to see that in municipal government the high turnover rate in firefighting also occurred, even though slightly less than this figure, maybe our argument would be less effective. But firefighting at municipal government levels have very, very low turnover rates, usually in the 4-to 6-percent range.

Mr. HARRIS. Basically your testimony then is that the average in the municipal area, what have you, runs between 4 and 5 and that the Federal firefighters are running at 23?

Mr. SCHAITBERGER. Yes.

Mr. HARRIS. That would be an influence.

Mr. Dannemeyer.

Mr. DANNEMEYER. Some information that I have here in my packet indicates that there are 11,500 people that you represent, roughly.

Mr. MCCLENNAN. That we do, yes, sir.

Mr. DANNEMEYER. Yes, sir. And I would assume there are about 11,500 job slots in the Federal Government for these people who are members of your organization, roughly?

Mr. MCCLENNAN. Not necessarily.

Mr. DANNEMEYER. Approximately?

Mr. MCCLENNAN. Some of them belong to American Federation of Government Employees, some to NFFE. The IAFF has approximately 2,800, I would think.

Mr. DANNEMEYER. My question is this: Do you know of a job that is available as a firefighter today for the Federal Government that you cannot find people to fill? If you do, where is it?

Mr. SCHAITBERGER. I think, as in our testimony we tried to express in a fair manner, there is a substantial number of people on eligibility lists to fill any slots that may open up with the Federal service.

Mr. DANNEMEYER. How many?

Mr. SCHAITBERGER. We have accepted the administration's figure, which used 8,000 last year.

Mr. DANNEMEYER. 8,000 people are yearning to get job slots of roughly 11,500 in number, is that right?

Mr. SCHAITBERGER. That is correct.

Mr. DANNEMEYER. And you are asking the Members of Congress to come to the conclusion that, notwithstanding that 8,000 people want the jobs 11,500 have, 11,500 should receive different working conditions than they presently enjoy.

Mr. MCCLENNAN. Especially a 72-hour workweek, yes, sir. And the fact that these 8,000 are waiting for jobs would come in on a GS-3 level. I think that is the important point.

Mr. DANNEMEYER. Thank you very much.

Mr. JOHNSON. May I say something?

Mr. HARRIS. Thank you, Mr. Dannemeyer.

I do want to be clear on this: With regard to the 8,000 figure that you speak of as being eligible, entering into the Federal fire service, eligibility, does that include any training in fire suppression work?

Mr. SCHILLREFF. No, not at the GS-3 level, you do not have to have firefighting experience. Basically you have to be able to read, write and pass a physical.

Mr. HARRIS. Then I am not confused about the situation. You are indicating that by and large each year we bring in basically 23 persons untrained and let go 23 percent trained?

Mr. SCHAITBERGER. That is right.

Mr. SCHILLREFF. That is right.

There is one other thing that has come to light since last year's testimony on this. The female firefighters are being hired in the Federal Government as well. They are not being brought in at the GS-3 level; they are being brought in as GS-1 trainees for a year, then to GS-2, and maybe if they are lucky, getting the GS-3 or 4 a couple of years down the line.

The point is that the practice of employment within the Defense Department is not one that you can rely upon.

Mr. HARRIS. Thank you very much for your testimony. We appreciate it.

Mr. MCCLENNAN. Thank you, Mr. Chairman.

Mr. HARRIS. Our next witness is Mr. David Gusky, legislative director of the National Federation of Federal Employees.

We welcome you to the subcommittee, Mr. Gusky. You may proceed with your statement in the manner you please.

STATEMENT OF DAVID GUSKY, LEGISLATIVE DIRECTOR, NATIONAL FEDERATION OF FEDERAL EMPLOYEES, ACCOMPANIED BY ROBBIE EXLEY, DIRECTOR, DOD BRANCH; CHESTER LANEHART, PRESIDENT, NFFE LOCAL 1615; AND JAMES ZIMMER, PRESIDENT, LOCAL 1451, ORLANDO, FLA.

Mr. GUSKY. Thank you, Mr. Chairman.

I would like to introduce the people with me.

To my far left is Chester Lanehart, president of local 1615, Andrews Air Force Base; Jim Zimmer, president of local 1451, and to my right is Robbie Exley, director of our DOD branch.

Mr. Chairman, before I begin, I want to apologize on behalf of our president, Mr. Pierce, who, as you know, was originally scheduled to testify this morning. Unfortunately, a last-minute schedule change prevented him from appearing.

Mr. Chairman and subcommittee members, NFFE is the largest independent union in the Federal sector, representing more than 150,000 employees throughout the Government. Included among its members are many Federal firefighters who serve at Defense Department installations and at Veterans' Administration hospitals. There civil servants regularly risk their lives to save others and to protect Federal property. Their responsibility often requires familiarity with duties not required to municipal firefighters.

For example, the firefighters at Andrews Air Force Base, whom NFFE represents exclusively, stand ready at each landing of Air Force One to protect the President and other national leaders in the event of an emergency. Even when Federal firefighters are at rest, they must be constantly alert to fire hazards and ready to respond to alarms.

Although they unquestionably have responsibilities which their other public-sector counterparts do not have, Federal firefighters still work more hours for less money. In the Washington, D.C., area, as in other areas, they are generally employed for a 72-hour workweek, while their public-sector counterparts most often work 48-hour or 56-hour weeks.

H.R. 2748, which would establish a 56-hour workweek for Federal firefighters, offers a measure of pay and hour comparability with other public-sector firefighters. By providing a shorter workweek without significantly reducing Federal firefighters' earnings, the flight of these Government workers to presently more attractive municipal firefighting positions would be curbed. The Federal Government would be better able to retain a trained and dedicated work force capable of dealing effectively and efficiently with fire hazards.

In addition, this bill provides Federal firefighters, who are currently entitled under the Fair Labor Standards Act, to the reduced overtime rate of compensation, with a more equitable pay system. Since overtime computation under the act is based on the length of the employees' work period, the critical factor in the determination of overtime entitlement is the average workweek. Because the workweek for Federal firefighters is 72 hours, the base rate of pay for figuring their overtime is lower relative to firefighters with a 56-hour workweek, or to GS employees who typically work a 40-hour week. Consequently, overtime also is paid at a lower rate.

For example, if firefighters are hired to work 72 hours per week at a rate of $216, the base pay is determined by dividing 72, the number of hours in the work period, into $216, the weekly compensation. This yields a base pay of $3 per hour. Thus firefighters are paid $3 for each of the 72 hours they are on duty. In addition, they are entitled to overtime compensation under the Fair Labor Standards Act for each hour of duty exceeding 54 hours in a workweek;

but, since the firefighters already have been paid $3 an hour for each hour between 54 and 72, they are only entitled to $1.50 more per hour for the 18 hours of overtime. The present system permits a total overtime compensation of $4.50 per hour.

In comparison, H.R. 2748's establishment of a 56-hour workweek for Federal firefighters means that these civil servants who work the same 72-hour tour of duty for $216 per week instead would have a base pay rate of $3.86 per hour. And since the firefighters would only receive the base pay for each of the 56 hours on duty, they would be entitled to overtime pay at a fairer hourly rate of $5.79 for each hour in excess of the standard workweek. In this way Federal firefighters are, like most other employees, entitled to 1½ times their regular rate of pay when the length of the firefighter workweek exceeds the maximum workweek established by the Fair Labor Standards Act.

I should note that these examples do not take into account the 25-percent premium pay given Federal firefighters under section 5545, title V, United States Code. This provision applies to those Federal employees whose positions require him regularly to remain at, or within the confines of, his station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status. H.R. 2748 would not affect firefighters' entitlement to premium pay.

Hypothetical comparison of current pay and pay under H.R. 2748: Current pay system, 72 hours a week; salary, $216 a week; work period, 72 hours a week; base pay, $3 an hour; overtime pay, $4.50 an hour.

H.R. 2748, 56 hours a week; salary, $216 a week; work period, 56 hours a week; base pay, $3.86 an hour; overtime pay, $5.79 an hour.

It is not surprising, therefore, that Federal firefighters find their present pay system inequitable and look to H.R. 2748 for relief. By establishing a basic administrative workweek of 56 hours consistent with the interest and purposes of the Fair Labor Standards Act, and by increasing base pay and overtime compensation, the bill would improve working conditions for Federal firefighters and, in turn, improve the overall quality of the Federal workforce. NFFE strongly supports its enactment.

That concludes my statement. I will be happy to answer any questions.

Mr. HARRIS. Thank you very much for your testimony.

I do have one or two short inquiries to make but I am going to have to recess the subcommittee while we catch our live quorum call. We will be back in session in approximately 7 to 8 minutes. We have been working for a 3-minute response but we only have been able to get a 7-minute response up.

[Recess.]

Mr. HARRIS. The subcommittee will come back in session. I apologize for the delay. If you think you have trouble scheduling the workweek for firefighters you should check on the Congress. Quite frankly, we hoped to hold these hearings in sort of a unified fashion but on Friday morning you don't always get the best opportunity. They decided to have the Defense authorization bill carry over until this morning and I have two amendments on the floor with regard to it.

Again, I appreciate your testimony. I have one question. In your statement you refer to the flight of Federal firefighters to more lucrative municipal firefighting positions.

How extensive is this problem, do you feel?

Mr. GUSKY. I will let my expert to my left answer that question.

Mr. HARRIS. We have heard the testimony of the flight of Federal firefighters to more lucrative municipal firefighting jobs. I was just inquiring as to how extensive you felt that problem was.

Mr. LANEHART. Overall, the Federal firefighters themselves don't have much initiative to stay within the Federal sector. As soon as they get the qualifications they need to qualify to go into the municipalities, they will do this.

For instance, the qualifications to get in this area are very high and they cannot meet them initially until they get some type of experience. So they get into the Federal sector, get the minimum qualifications and then they apply for the local jobs such as the D.C. Fire Department, Alexandria, Fairfax, Prince Georges County.

Mr. HARRIS. Are you a firefighter?

Mr. LANEHART. Yes, sir.

Mr. HARRIS. Where?

Mr. LANEHART. At Andrews Air Force Base.

Mr. HARRIS. How many people left the Federal firefighting force at Andrews last year?

Mr. LANEHART. To my knowledge, we have lost three in the last year and they went to Fairfax and Alexandria, Va., due to the fact they cannot get into Prince Georges at the present time—they have no openings and they have not started a new training program; same with the District of Columbia. They haven't had any openings in over a year.

Mr. HARRIS. What does three in a year mean? How big is your force there?

Mr. LANEHART. We had 53. Due to a military cutback we are back to 30, so we are using the number of three we have lost out of 30 men. This is what you are speaking of.

Mr. HARRIS. Mr. Zimmer, do you have anything to add to that?

Mr. ZIMMER. I sure do. At the Naval Training Center, Orlando, in the last year we have lost 12 people. We had 35, we were cut back to 36. The new firefighters we have are temporary. They are holding fire station 3 in abeyance for contracting out. We have had a consistent turnover just within the last year.

Previous to that they closed down the Naval Air Station at Sanford and drew their firefighters into the Naval Training Center, Orlando, and when I arrived there 10 years ago we were all about 54 years old. But as they retired, the youth came in and the youth is using it as a stepping stone. They get their training. They go to night school, they get their emergency certificates and they step right over into the public sector.

Two of our GS-5's just quit. Jim is about 30 years of age. He wants to get a degree in fire engineering but I think he has a little money, he is just going back to school. But he was on the highly qualified list for fire captain in the last selection that was put up.

But there seems to be nothing to hold them. The extended work hours as compared to the public sector is one of the reasons that these guys are bailing out.

Mr. HARRIS. Let me have those figures again. What was your total force?

Mr. ZIMMER. We have 36 right now and in the last year we turned over 12 people. Admiral Anderson was written by Mr. Pierce because there was a mandatory overtime. We filed unfair labor practice charges trying to alleviate this situation. Admiral Anderson forced the Naval Training Center to put on 8 temporary employees and within the last 3 weeks four more temporaries were added to this list.

Twelve people have been turned over within a year.

Mr. HARRIS. It is about a 30-percent turnover.

Mr. ZIMMER. About 33–35 percent.

Mr. HARRIS. Thank you. Mrs. Spellman, do you have any questions?

Mrs. SPELLMAN. I don't know what you have already covered so I will just read the testimony.

Mr. HARRIS. I want to thank you very much for coming.

Mr. ZIMMER. If I may, I would like to add one thing. In the area of training most of our people, again by Government money, have gone through emergency medical training to at least become EMT 1's. A lot of them are moonlighting on their off-days using this training in emergency medical.

Mr. HARRIS. I think there is a policy question this Congress has to resolve. I think there may be an argument that the Federal Government should not use its funds to subsidize the municipal firefighting services by training its personnel for them. That is obviously what we are doing now.

I am not sure we have a full measurement on how large that subsidy is. If in fact we have taken one-fourth of our force each year and turned it over trained to the municipal firefighting force, it is probably a decent sized subsidy. Maybe this is what the Federal Government should be doing. I just hope the next fire involving high octane aircraft fuel is not manned totally by trainees.

In the meantime, I am sure my local jurisdiction and perhaps my colleagues will write little letters of thank you for the training. Thank you again for your testimony. We appreciate it very much.

The next witness is Mr. Raymond Weissenborn, Director of the Compensation Division, Office of Personnel Management.

STATEMENT OF RAYMOND WEISSENBORN, DIRECTOR, COMPENSATION DIVISION, OFFICE OF PERSONNEL MANAGEMENT, ACCOMPANIED BY DWIGHT W. BROWN, MEMBER, PROFESSIONAL STAFF

Mr. HARRIS. We welcome you to the subcommittee. We appreciate having you. You can either read your testimony or you can brief it.

Mr. WEISSENBORN. Mr. Chairman and members of the committee: I am pleased to appear before you today to explain the views of the Office of Personnel Management on H.R. 2748, a bill affecting the pay and hours of duty of firefighters in the Federal service.

First, before I comment on H.R. 2748, I would like to review quickly the present pay and hours of duty of Federal firefighters. As you no doubt are aware, the vast majority of Federal firefighters are in the Department of Defense and almost all of them

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have 72-hour weekly tours. Normally a 72-hour weekly tour of duty consists of three 24-hour shifts; each shift includes approximately eight hours of actual work and 16 hours in standby status, including a designated sleeping period.

Therefore, the 72-hour weekly tour typically consists of only 24 hours of actual work, with the remaining 48 hours being time in a standby status, during which firefighters are free, for example, to eat, sleep, or follow other personal pursuits within the confines of their duty station. For this 72-hour tour of duty arrangement, Federal firefighters receive their basic pay plus a premium pay differential of 25 percent of basic pay under title 5, United States Code.

Furthermore, with the enactment of the Fair Labor Standards Amendments of 1974, Federal firefighters also receive additional overtime pay under that act, which, at present, equates to about 15 percent of basic pay.

The purpose of H.R. 2748 is to establish an average 56-hour weekly tour of duty for Federal firefighters and to guarantee their continued entitlement to a premium pay differential of 25 percent, which would be identified specifically by law as a "firefighter premium pay."

In our opinion, this bill is unnecessary, costly, and contrary to the principles of sound compensation policy.

Under current law, the authority to fix the hours of work of Federal employees, including firefighters, rests with the heads of agencies. The authority to fix the rates of premium pay for employees with longer than ordinary tours of duty involving substantial amounts of standby duty rests with the Office of Personnel Management.

H.R. 2748, if enacted, would set by statute, that is, would mandate a 56-hour weekly tour of duty for Federal firefighters and would establish a 25 percent firefighter premium pay as a statutory right for this 56-hour weekly tour of duty.

This would override both the authority of the agencies to administratively set the hours of work of their employees and the authority of the Office of Personnel Management to establish appropriate rates of additional compensation for varying standby tours of duty.

In effect, Federal firefighters would work fewer premium or overtime hours, but would continue to receive the premium pay for the longer tour of duty. This reduction in their tour of duty from 72 hours to 56 hours without a commensurate reduction in premium pay would amount to an approximate 30 percent increase in the hourly rate of pay of Federal firefighters.

Thus, Federal firefighters would be established as a favored class of employees separate from other Federal employees who receive annual premium pay—we are providing the subcommittee with specific data on the types and numbers of other Federal employees in receipt of annual premium pay in an attachment to this statement.

Furthermore, there is no basis for maintaining the higher rate of premium pay if the tours of duty that were the basis for that premium rate are reduced. This situation is no different from, for example, a night shift employee who is reassigned to the day shift, or an employee returning from an overseas area where a cost-of-

living allowance was authorized. When the situation justifying the premium is eliminated, the premium pay should also be eliminated.

The Office of Personnel Management is convinced that Federal firefighters are adequately compensated for the duties they perform.

Mr. HARRIS. Excuse me for interrupting you at that point.

Your testimony with regard to premium pay confuses me somewhat. Premium pay as a concept was always, I thought, an attempt to simplify matters with respect to regularly scheduled workweeks that include Sunday, holidays and nighttime shifts.

I thought instead of going through all the problems of computing this type of special duty add-on hours. The premium pay was for the most part an attempt to recompense for that type of duty.

Am I incorrect about that?

Mr. WEISSENBORN. I think you are largely correct but there are some other factors in there also.

First of all, this kind of premium pay is geared mainly to the requirement that the employees work extended hours where they are present for extended periods, a part of which they are in standby status.

With the combination of that, considering the night shift differential payments that otherwise would come due, now Sunday work, although that didn't exist at the time this was established, there were advantages on both sides.

One, it certainly created administrative simplicity to have a continuing level of payment. It also provided a degree of consistency to the employees themselves in having a uniform amount of pay coming in rather than fluctuating up and down according to how many night hours there were.

Mr. HARRIS. I think you said mostly what I said. I am not sure what you are distinguishing here that I didn't say.

Mr. WEISSENBORN. I was making the point that the 25 percent of additional annual pay is not geared solely to the idea of simplifying the payrolling but geared to a recognition of a situation where employees are not actually performing work all of the time, even though they are subject to the control of management, that being somewhat different.

Mr. HARRIS. Am I correct or incorrect it is more or less a substitute for nighttime differential, Sunday and Holiday differential?

Mr. WEISSENBORN. Yes, sir; it is.

Mr. HARRIS. That is what confused me. If in fact they work fewer overtime hours that will reflect in their pay, will it not?

Mr. WEISSENBORN. Yes. If the tour of duty were reduced, then there would——

Mr. HARRIS. They would get less overtime pay.

Mr. WEISSENBORN. Yes, but there is a significant factor here that I was trying to reach, sir, and that is if an individual receives a given rate of pay for a total number of hours and that total number of hours is in fact reduced, but the total pay is not, then the effect of that is to increase the hourly rate of pay for the employee in total.

Mr. HARRIS. On the other hand, if he works fewer overtime hours he will get less pay, isn't that correct?

Mr. WEISSENBORN. In total pay; yes, sir.

Mr. HARRIS. Thank you.

Mr. WEISSENBORN. I guess I am making the point that under any concept, whether in the Government or in industry, where a reduction in total hours is not appended by a reduction in total pay, it amounts to an effective increase in pay.

In other words, you are working fewer hours for that total amount even though the total amount is somewhat less than it was before in this particular case.

I believe I was at the point of saying the Office of Personnel Management is convinced that Federal firefighters are adequately compensated for the duties they perform.

If present Federal pay levels for firefighters were not competitive, recruitment or retention difficulties undoubtedly would arise.

When agencies face these conditions they can request and the Office of Personnel Management can establish higher in-hiring rates as needed to enable the Government to recruit and retain well-qualified personnel.

The fact that no area within the contiguous 48 States currently warrants special rates for firefighters is clear evidence that total Federal pay is competitive with non-Federal pay for firefighters.

Another good indication of the adequacy of Federal pay levels for a particular occupation is the number of eligible candidates on Federal registers.

The "Federal Employment Outlook," published quarterly by the Office of Personnel Management, projects actual needs for Federal occupations and general trends for employment. The current Federal Employment Outlook, September-November, 1979, contains only two listings (North and South Dakota and Rock Island, Illinois) where a projected shortage of Federal firefighter candidates may occur. Otherwise, 99 percent of Federal activities do not anticipate a shortage of firefighter candidates.

A recent review of Federal and municipal salaries for fire fighters also supports our contention that Federal firefighters are adequately compensated.

A comparison of salaries paid to municipal firefighters in cities of 10,000 or more with the pay levels for Federal firefighters in effect in January 1979 reveals that pay for Federal firefighters exeeded the national average pay for municipal fire departments by 12.7 percent at the entry level and approximately 20 percent at the maximum—salary comparison data on a nationwide basis is provided in an attachment to this statement.

In 1977, we compiled a report on the distribution of Federal civilian firefighters by geographic area and a comparison of Federal firefighters pay with the salaries of municipal firefighters in the nearest locality.

The information from this review indicated that 65 percent of municipalities had entrance salaries below Federal entrance pay, that 74 percent of municipal salaries for fire fighters with 4 years of service were below corresponding Federal pay, and that 91 percent of municipalities had maximum salaries that were lower than the maximum Federal pay—salary comparison data on a locality basis is also provided in an attachment to this statement.

We are not saying, of course, that the salaries of municipal fire fighters should be used as a basis for setting Federal firefighters pay. However, if we were to reduce the tours of duty of Federal firefighters to the mean tour of duty of 52-56 hours for municipal firefighters, logic would call for reducing the Federal pay also.

Only a 15 percent differential, rather than 25 percent, would be needed to keep the pay of Federal firefighters in line with that of municipal firefighters if the tours of duty were the same.

Last year, these objections led to our opposition to H.R. 3161, an identical bill. These objections continue to apply. The Administration believes H.R. 2748 is costly, unnecessary, and contrary to sound compensation policy—therefore, we oppose the legislation.

Thank you for this opportunity to discuss this legislation with you. I would be pleased to answer any questions you may have.

[The attachments follow:]

ATTACHMENT I.—*Federal employees (other than firefighters) in receipt of premium pay on an annual basis for standby duty (5 U.S.C. 5545(c)(1))*

Occupation:	*Numbers of employees*
Medical/laboratory technician	391
Nurse/nursing assistant	208
Club/mess managers	149
Electronics technician	130
Forester/forestry technician	98
Medical machine technician	36
Guards	17
Drugs dependents treatment center rehabilitation technician	10
Geophysicist	9
Veterinarian	8
Administrative assistant/clerical	8
Air safety technician	7
Microbiologist	4
Aerial photographer	3
Special services director	3
Research physicist/research chemist	3
Miscellaneous	5
Total	1,089

Federal employees in receipt of premium pay on an annual basis for administratively uncontrollable work (5 U.S.C. 5545(c)(2))

Occupation:	*Numbers of employees*
Criminal investigator	17,612
Deputy U.S. marshal	1,552
Border patrol agent	1,496
Security specialist	52
Airplane pilots	38
Electronic engineer/technician	24
Plant quarantine inspector	18
Special officer	16
Photographer	11
Document analyst	9
Fingerprint specialist	8
Nurse/clinical nurse	8
Meteorologist/meteorological technician	7
Communications specialist	6
Mess Club managers	6
Intelligence specialist	4
Guard	4
Civil engineering technician	3
Biological technician	2
Physical scientist	2
Miscellaneous	6
Total	20,884

ATTACHMENT II.—*Comparison of municipal and Federal firefighters salaries as of Jan. 1, 1979*

I. Minimum salaries:	
Municipal firefighters	$11,714
Federal firefighters	$11,739
With 12.5 percent FLSA	$13,206
Percentage of municipal salaries	100.2
With 12.5 percent FLSA	112.7
II. Maximum salaries:	
Municipal firefighters[1]	$15,161
Federal firefighters[2]	$16,166
With 12.5 percent FLSA	$18,187
Percentage of municipal salaries	106.6
With 12.5 percent FLSA	120.0
III. Percentage differential needed for 56-hr workweek comparability[3]	17.2

[1] ICMA, The Municipal Year Book. Mean entrance salary and mean maximum slary (including longevity) for cities of 10,000 or more as of Jan. 1, 1979.

[2] October 1978 Pay Rates (pay rates in effect January 1979). Entrance Salary: GS–4/1 including premium pay for standby duty (25 percent). Maximum Salary: average salary for GS–4/10 and GS–5/10 including premium pay for standby duty (25 percent).

[3] The average maximum salary for GS–4/10 and GS–5/10 of $12,933 (without premium pay for standby duty) needs only to be increased by 17.2 percent to be comparable with the mean maximum salary of $15,161 for municipal firefighters.

ATTACHMENT II.—*Highlights, October 17, 1979*

The review of municipal and Federal salaries indicates the following: 5₁ percent of municipalities have entrance salaries below Federal salaries; after 4 years 57 percent of municipal salaries are below Federal salaries; 76 percent of municipalities have maximum salaries below Federal salaries.

Furthermore, if FLSA payments are included with Federal salaries, the percentages of municipal salaries below Federal salaries are as follows: 65 percent at the entrance level; 74 percent at the 4-year point; 91 percent at the maximum level.

On a national basis, Federal salaries are equal to municipal salaries at the entrance level, are significantly greater at the 4 year point, and are dramatically greater at the maximum level.

Municipal firefighter salaries vary greatly depending upon size of the municipality and location of the municipality within the United States. For example: The average municipal salary for cities of one million or more is 29 percent higher than the average salary for all cities of 10,000 to 24,999. The average municipal for cities in the West Region is 44 percent higher than the average salary for cities in the South Region.

Federal firefighters are widely dispersed. The preponderance of Federal firefighters are located in areas other than the large metropolitan areas. Furthermore, almost one-half of all Federal firefighters are located in the South Region where municipal firefighter salaries are low.

EXPLANATORY NOTE

The distribution of Federal civilian firefighters in this report includes all Federal firefighters (GS–081) in grades GS–3 through GS–5 in the Department of Defense stationed within the 48 contiguous states. The GS–3 Through GS–5 population represents the nonsupervisory Federal firefighters which are equivalant to those personnel who do not hold any promotional rank in municipal fire departments. It is believed that the distribution of Federal civilain firefighters in DOD is representative for the purposes of this report since these are the Federal firefighters who are on-duty 72 hours per week (three 24-hour shifts) and DOD civilian firefighters comprise approximately 91 percent of the total Federal firefighter population.

Mr. HARRIS. I note on page 5 you do confirm that the average municipal firefighter works a 52 to 56 hour week as compared to the 72 hours of the Federal firefighter, so there is no contention on that point.

There is that difference between the Federal fire force and the normal, if I may use that word.

Mr. WEISSENBORN. Yes.

Mr. HARRIS. I have had come to my attention in other pursuits on this subcommittee there is a number of Federal firefighter units that are considering contracting out. Do you have such information?

Mr. WEISSENBORN. I do not have any specific information on that.

Mr. HARRIS. Has the OPM investigated this area at all with regard to contracting out? Has there been any inquiry or study in OPM with regard to the movement toward contracting out of fire services?

Mr. WEISSENBORN. To the best of my knowledge, there has not been. I will check that and if I am in error I will so advise.

Mr. HARRIS. I would appreciate that because it is a matter of some concern to me if in fact a municipal service or some other service can set up a 52 or 56 hour workweek and still contract in, I don't see how they could do it on a cost effective basis, and it may be such agencies are playing a numbers game with personnel ceilings which I guess is possible.

Mr. WEISSENBORN. There are many reasons that can lead to decisions to contract in a particular area. As you get to the costing aspect of that we certainly are faced with the situation in which the Federal Government is paying nationally uniform rates.

As one would expect, that means there would be higher rates in some localities and lower rates in other localities. Therefore, in a given locality there may indeed be higher municipal rates. Our examination of the situation that I have cited in the testimony today examines that on a national approach basis, that is on a nationwide average.

Mr. HARRIS. I notice that. Those statistics you used are based on a survey that went down to towns as small as 10,000. I did have to smile at such comparisons where a force may be three-quarters volunteer. Compared to the salary scale in Fairfax County where Andrews or other bases would have to compete is not a valid comparison.

Mr. WEISSENBORN. We are making our comparison on the paid firefighters. The fact of the matter is that we have firefighting activities in the full range of kinds of communities and areas. We, generally speaking, when talking about pay comparability determinations or comparisons, believe that we ought to be examining the full range of employment, including those in large cities, small cities, metropolitan areas, non-metropolitan areas, because that is the totality of the competition in the marketplace that we face nationwide, and that is what we have done in this case.

Mr. HARRIS. Excuse me, I don't want to seem contentious on this but I would guess you have a notion of what a firefighting operation is in a town of 10,000. You don't have that many 18- or 20-story buildings and highly volatile fuel is not one of the factors. You may be pretty good at putting out brush fires but that only may be what you are called upon to do; isn't that right?

Mr. WEISSENBORN. Yes. The other side of that equation is that obviously the larger cities with their much larger fire departments

in any nationwide comparison will carry much more weight in the overall averages.

I certainly would not contend that we would expect that the salaries of any given locality of 10,000 people would be as high as the national average or the larger cities. I believe there is a degree of correlation between size of city and levels of pay just as there is in private corporations, and I would agree with the point you have made in that respect.

Mr. HARRIS. The figures hit me not only the 10,000 comparison that you noted in the study but that the differential was 12.7 percent in favor of the Federal firefighting—I am referring to page 4 of your testimony. I couldn't help thinking that those figures themselves demonstrate, if accepted, that the Federal firefighter receives 12.7 percent more pay for 33 percent more hours.

I wondered if you felt that was fair?

Mr. WEISSENBORN. I believe if we were talking about 30 more hours of actual work I might not be able to hold the position that I have.

Mr. HARRIS. You tend to really wipe off the standby period.

Mr. WEISSENBORN. Not the total standby period. Although, the basic 8 hours is standby, I would have to say in a typical 24-hour tour, 8 hours is devoted to sleep time, admittedly subject to interruption.

Mr. HARRIS. In the 56-hour tours in the municipal system, do they sleep then?

Mr. WEISSENBORN. Yes, I believe that they do.

Mr. HARRIS. I get the impression that you are saying that standby period really should be wiped out as far as Federal workers are concerned because it doesn't happen in the municipal; but it does happen in the municipal system.

Mr. WEISSENBORN. No, sir; I am not saying that. We fully recognize that distinction. What we are saying is that with our premium pay that goes with that longer period of duty we think we are adequately compensating those people. We also would say that were the work tour in fact to be reduced to 56 hours, we do not think that a full 25 percent premium pay differential would be needed to then have us on a level of equality with the municipal salary.

Mr. HARRIS. You are saying you would support the bill if the premium pay was reduced from 25 to 15?

Mr. WEISSENBORN. I believe that then as far as the premium pay aspect of it is concerned, that would be totally in line with the practice.

Mr. HARRIS. That is encouraging. Maybe we can compromise at 20 and let it go.

Mr. WEISSENBORN. I think we have other problems with the bill—increased staffing and higher costs.

Mr. HARRIS. There is a dispute with regard to figures. If I may get your testimony on this, the figures I am getting from you with regard to turnover as to 14 percent—actually, it comes out in the Navy testimony I guess—and the firefighters are testifying to 23 percent.

Do you have any knowledge with respect to why that figure is so different?

Mr. WEISSENBORN. No; I do not. I am quite curious about the source of the 23-percent figure because we think that the figure developed by the Navy coming off the records should be factual. We don't have actual turnover of firefighters in OPM.

Mr. HARRIS. Could you use your good offices—obviously, there is a dispute between DOD and the work force—to submit for our record a determination of who is right and who is wrong on this.

Mr. WEISSENBORN. I would be happy to do this.

[See p. 36 for letter of response.]

Mr. HARRIS. If we could fairly promptly get a submission from you it would help.

There seems to also be some dispute with regard to cost estimates. I don't know if you are familiar with the two contentions that are before us here or not but dramatically different figures are being used with the amount of personnel affected by the reduction of work hours. Here, again, we have labor testifying that actually the cost estimate is based on inflated figures. They set out reasons why they think those figures are inflated.

Can you help me resolve that problem?

Mr. WEISSENBORN. I believe in the sense of having specific figures available to me to do it right now, no. I believe that the representative from the Department of Defense will speak to how their cost estimate was arrived at in some degree of detail.

It seems clear to me one of the points of contention there seems to be the carryover impact into increased staffing that would result from impact of the military situation.

As I listened to the statement awhile ago, I had the impression that it might boil down to a question of whether the bill mandates in effect that or whether that is a carryover impact that has been assumed necessary by management.

Mr. HARRIS. This is the question that I want to present to you and want to resolve. We actually have a number being used by management that says this will decrease their hours from 72 to 56. I believe Labor is saying that actually a substantial part of that number already work something less than 72 hours because of the duty assignment, and therefore, that total number is a little bit fat with regard to the impact of the bill.

I think this is what should be resolved. The least we can do is have the Congressional Budget Office and OMB and OPM use the same figures. I would like to know what the right figure is. Do you have any specific knowledge on that?

Mr. WEISSENBORN. I do not have specific knowledge. I have a general understanding, that is without specific figures, that the Department of Defense firefighters do in fact work 72-hour tours. I am sure that the Defense representative plans to speak to that. If there are issues there to be resolved of a factual nature, I will be happy to offer our offices to try to do that.

Mr. HARRIS. Thank you for your testimony.

Mr. Dannemeyer.

Mr. DANNEMEYER. The last two Presidents vetoed this legislation. If you can tell us if the Congress were to pass the legislation, do you believe your office would recommend to the President that he again veto the legislation?

Mr. WEISSENBORN. I am very sure that if the legislation were enacted in its present form that the Office of Personnel Management would so recommend.

Mr. HARRIS. Mr. Dannemeyer, I am checking that. You indicated, I think, that President Ford vetoed it.

Mr. DANNEMEYER. I didn't say which ones. Was it President Ford? Did the last two Presidents veto it?

Mr. BROWN. The only veto was the last one.

Mr. HARRIS. I think President Carter was the only one who has vetoed it.

Mr. WEISSENBORN. Yes.

Mr. HARRIS. We only have a Democratic veto on the record. No Republican veto.

Mrs. Spellman.

Mrs. SPELLMAN. I think, Mr. Chairman, you have really covered most of the points that I was concerned with. I find it very difficult to understand the idea of calling some of this just "standby time," denigrating it as you appear to be doing. It seems to me when you leave the house and when you come back you have then finished your work period. During the time that these people are on standby, could they go off to school to get their additional training? Can they leave the station to do that?

Mr. WEISSENBORN. No. As a matter of fact, that is one of the conditions specified in the statute which authorizes this kind of standby premium pay, that they must be in effect confined within their duty post.

Mrs. SPELLMAN. Exactly, so they must be there.

Mr. WEISSENBORN. Part of the combination I was touching on awhile ago is that typically under that statute a major part of the tour of duty—I use that as opposed to work as such—is in standby where typically the employee is not assigned duties to do even though his time is controlled.

I want to emphasize we are in no way objecting to the fact that employees are being paid for standby time. We recognize that the Government is effectively controlling their time and that while there are many kinds of activities an employee can engage in that the employee personally prefers to do during that period of time, there are also other things they can't do and that includes leaving the post or perhaps other things that would be illogical to do at the post.

Mrs. SPELLMAN. So in my opinion he is working. I say "he" advisedly because I dare say most of them are males. But he is not able to help the kids with their homework or throw a ball to his youngster in the backyard, he is there on his post working whether he is actually fighting a fire at that particular time or actually working on the motor of the vehicle he is going to be using.

He is required to be there and, therefore, as far as I am concerned I would consider that part of his worktime. I understand that there is a difference between actively working and being there but I don't look very lightly on the time that an employee must be on the job.

I think we call that worktime.

Mr. WEISSENBORN. It certainly is paid duty time. The reason that we tend to make the distinction as between actual hours in which

assigned duties are performed versus the other is that it gets back to the enabling statute which was designed to provide a different method of handling the premium pay for employees in that kind of circumstance as opposed to an employee whose total number of hours at the jobsite were devoted to specifically assigned duties.

So there is that kind of distinction. The law was very particularly aimed at that distinction. Therefore, perhaps to the extent that we emphasize that point I would say that we are trying to indicate the distinction that the law makes in the kinds of duty assignments. They are certainly all paid duty hours. We consider them all to be, that is, all of those above the regular hours, to be premium pay hours.

Our real objection is reducing the premium pay hours without reducing the premium pay. It is not a case of the basic rate of pay. The basic rate of pay is the same for any other employee on a 40-hour tour of duty. The 25 percent is in addition to that weekly rate of pay.

So the whole 25 percent is premium pay. In addition, there is an additional amount in the neighborhood of 12 percent which flows from the application of the Fair Labor Standards Act in which this 25-percent premium pay is actually included in the base on which the Fair Labor Standards Act additional premium is computed. It is the Fair Labor Standards Act premium that would be reduced, not the 25-percent premium.

Mrs. SPELLMAN. I found myself very interested in this statement made by the International Association of Fire Fighters that, "The average Federal firefighter received grand total of $1.83 for each hour of overtime work."

Mr. WEISSENBORN. I can't accept that kind of statement because I don't believe it is factually accurate. Each hour of overtime as we would treat it now in the fullest sense would be that those hours over 54 in a week in which premium pay would be due under the Fair Labor Standards Act. It is that computation to which this $1.83 is related. The fact of the matter is that under that circumstance for each hour put in above 54 in a week, the employee receives $5.49.

I have done some quick calculation. I think my figure is right.

That would consist of $3.66 of "regular rate" which is the regular scheduled rate plus the 25-percent premium, and the $1.83 is the extra 50 percent on top of the $3.66, so it would be $3.66 plus $1.83 or a total of $5.49.

Another way of saying that is for the hours above 54 there is a rate of one-and-a-half times the regular rate which totals $5.49. Some of this terminology is related to some of the Department of Labor rules which apply to the private sector and which we have adopted for the public sector for the Federal employees which talk about computing the regular rate for all hours worked, and that already includes full time for the extra hours plus an additional half time or time and a half over 54.

So sometimes it is stated as half time above the 72 hours of regular pay; other times it will be stated by an individual as time and a half of all hours above 54, the latter would be the easy way we state overtime and in this case the time and a half rate for hours over 54 would amount to $5.49 per hour. That is not the

grand total, that is the extra premium over and above the straight time rate.

Mrs. SPELLMAN. You were making the point just a little bit ago about the equity and keeping things equal among various employees. I couldn't help thinking at the time of the Panama Canal situation—not talking about firefighters there but talking about employees—and the fact that we have a very nice differential for those people, and this is one that OPM insisted on. We have a very fine differential for them because they have to live in that terrible place where they can enjoy the weather and boats that they have and so forth. Nobody wants to leave there.

Then on top of that we provide an additional differential for them for cost of living. We have piled it on those people in such a way that we have really created a utopia, but sit here saying, no, it would be unfair to change the working condition of Federal firefighters.

I think sometimes we ought to just lay some of these things out and take a look at them and see what we are doing.

Those folks go home at the end of a normal workday and spend time with their families, and yet we give them so much more than we even dare think of for Federal firefighters.

I find this 72-hour period demoralizing myself. I think that would be a very, very difficult tour of duty to have to spend. If we are talking about differentials, if we are talking about bringing the hours down, maybe that is what we ought to be looking at. I find myself just a little worried about some of the figures if we talk about differentials because the International Association tells us that comparisons between Federal firefighter locals and corresponding municipal locals show that the municipal firefighters are earning at least $500 more per year for an average 56-hour workweek.

I couldn't understand that until I heard your testimony and realized that you were including those tiny, little towns of 10,000. You know, I have lived in that kind of town, too, and I know the difference between the firefighting there and the kind of training those people have versus what we are expecting of these folks.

So I would certainly hope we find a way to move this legislation. I think it is long overdue.

Mr. HARRIS. I thank my colleague. Thank you all for your testimony.

The next witness, the final witness, is Mr. William Price, head of the Personnel Management Branch, Department of the Navy.

STATEMENT OF WILLIAM N. PRICE, HEAD OF THE PERSONNEL MANAGEMENT BRANCH, OFFICE OF THE ASSISTANT DEPUTY CHIEF OF NAVAL OPERATIONS FOR CIVILIAN PERSONNEL AND EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF THE NAVY, ACCOMPANIED BY EARL T. PAYNE, HEAD OF PAY POLICIES AND BENEFITS UNIT; JAMES M. MANSER, FIRE MARSHAL PROGRAM ADMINISTRATOR, NAVAL FACILITIES ENGINEERING COMMAND, DEPARTMENT OF THE NAVY

Mr. HARRIS. Mr. Price, we appreciate having you here and especially appreciate the fact that you submitted your statement to us and we have had time to review it. The subcommittee is operating

under some time constraints. Knowing that the Department of Navy's interest in the DOD authorization bill that is on the floor currently, I wonder if it would be possible to abbreviate your statement at this time?

Mr. PRICE. Certainly, Mr. Chairman. I will go through it very briefly and just touch the points not covered before.

Mr. HARRIS. In view of that I would ask unanimous consent that the entire statement be placed in the record at this time and I recognize you to proceed.

Is there objection? Hearing none it is so ordered.

[The statement of William N. Price follows:]

PREPARED STATEMENT OF WILLIAM N. PRICE

Mister Chairman and Members of the Subcommittee, I am William N. Price, Head of the Personnel Management Branch, Office of the Assistant Deputy Chief of Naval Operations (Civilian Personnel/EEO), Department of the Navy. I am pleased to be here today to present the views of the Department of Defense (DOD) on H.R. 2748, which would alter the basic workweek and overtime compensation of Federal firefighters.

With me is Mr. James M. Manser, Fire Marshal Program Administrator, Naval Facilities Engineering Command.

H.R. 2748 would establish for each firefighter a regularly scheduled administrative workweek of 56 hours per week, computed on the basis of a period of 21 consecutive days. The duration and frequency of work shifts occurring within such period would be determined under regulations prescribed by the Office of Personnel Management. Each firefighter would receive 25 percent annual premium pay irrespective of hours per workweek; and overtime, night, Sunday, and holiday pay would be provided for all hours of duty in excess of the regular hours of duty of the basic workweek. The bill would not change the pay or hours of any firefighter who has a 40-hour workweek immediately prior to the effective date of the bill.

H.R. 2748 is identical to a bill (H.R. 3161) which was vetoed by the President on 19 June 1978. In his veto message, the President listed as his objections to the bill: (1) An excessive increase in firefighters hourly rates of pay, (2) impairment of the ability of agency heads to manage the work force and regulate the workweek, and (3) unacceptable increases in personnel and payroll costs.

As indicated in the following comments, the Department of Defense is strongly opposed to the passage of H.R. 2748 because firefighters in the Department of Defense are compensated fairly and adequately through premium pay benefits under title 5, overtime provisions of the Fair Labor Standards Amendments of 1974, and annual Government comparability pay raises. Under H.R. 2748, the Department of Defense would have to employ an additional 4,500 firefighters, and incur an additional cost of approximately $48 million just to maintain current levels of fire protection at its installations. Moreover, passage of this legislation would establish a precedent by prescribing in law the length of a regularly scheduled administrative workweek that might have a substantive adverse effect on the Department in other areas.

There are firefighting departments in the Department of Defense at more than 300 installations worldwide. They are manned by military personnel and approximately 10,500 Department of Defense civilian firefighters. The impact with regard to the 10,500 civilian positions will be a requirement for an additional 2,850 firefighters with an increased salary cost of approximately $28 million. (See table 1.) In addition, although the bill is directed at changing the workweek of civilian firefighters only, it will require a commensurate reduction in military firefighter work hours, if problems of morale and retention are to be avoided. This requirement will result in an additional 650 military and 1,044 civilian firefighters. The anticipated cost for these additional firefighters is approximately $20 million.

The limitation on the regularly scheduled administrative workweek of firefighters is an unprecedented incursion into a traditional management right and responsibility. At the present time the length of the workweek and the length of the work shifts of firefighters in the Department of Defense are set administratively. Typically the workweek consists of three shifts of 24 hours on duty. In each 24-hour period, 8 hours are normally spent in scheduled duty assignments and 16 hours in a standby status, normally to include a designated sleeping period of 8 hours. Time spent responding to and returning from actual fire calls averages about 2 hours per

week or 3 percent of the time on duty. Most of the scheduled duty assignments consist only of light work, for example, training or manning alarm rooms.

In implementing the provisions of the 1974 amendments to the Fair Labor Standards Act, the Department of Defense chose to retain the 72-hour workweek for firefighters. This decision was made only after careful consideration of the budgetary implications and increased staffing necessary if the tour of duty of firefighters were reduced versus the overtime costs involved if current scheduling practices were continued. If the Department of Defense had chosen to reduce the workweek of firefighters to an average 60-hour workweek (58 hours in calendar year 1976 and 54 hours in calendar year 1977):

(1) The total salary of each firefighter would have been reduced approximately 8 percent in calendar year 1975 (an eventual 12 percent reduction in calendar year 1977). Under Commission regulations each firefighter would have qualified for a lesser percentage of annual premium pay for standby duty with each yearly reduction in the length of his tour of duty.

(2) Department of Defense salary costs for shift personnel would have increased approximately 10 percent in calendar year 1975 (an eventual 17 percent in calendar year 1977). These increased salary costs would have resulted from the increased staffing requirements to maintain the minimum level of fire protection services for Department of Defense installations.

On the other hand, by retaining the 72-hour workweek and compensating Federal firefighters for the excess hours under the Fair Labor Standards Act:

(1) The total salary of each firefighter was increased approximately 8 percent in calendar year 1975 (an eventual 12.5 percent in calendar year 1977). Note: Firefighters as a group were the only occupation within the Federal service that received an increase in pay as a direct result of the Fair Labor Standards Act Amendments of 1974.

(2) Department of Defense salary costs also increased approximately 8 percent in calendar year 1975 and approximately 12.5 percent in calendar year 1977 due to the overtime pay costs for firefighter personnel.

The length of the workweek for Federal firefighters must be considered in light of the nature of the hours of their duty. Fires tend to be less arduous and less frequent at Department of Defense installations than in urban areas. There is a very low incidence of fires at military installations and there are very few severe fires. The favorable statistics at Department of Defense installations are due to the excellence of fire prevention programs and a degree of control of the area which is not possible in civilian communities.

The present pay and hours of work of firefighters are fair and equitable. Except in isolated instances there has been little difficulty in obtaining recruits for appointment as firefighters. In addition, as indicated by the data contained in Table 2, separations from firefighter positions do not significantly exceed those from positions in several other occupations the grades of which parallel those of the firefighter occupation. In fact, firefighter separations are significantly lower than separations from several of the other occupations listed. In those instances where difficulty has been experienced, the situation was alleviated when the Civil Service Commission exercised its administrative authority to allow hiring at a higher rate of pay. Enactment of H.R. 2748 would require a searching review by the Department of Defense to determine whether there could be a commitment to the substantial cost increases occasioned thereby, or whether it would be necessary to eliminate or severely reduce fire department capabilities. Furthermore, H.R. 2748 would result in a pay loss, as shown in Table 1, of up to 9.5 percent for each firefighter currently working a 72-hour week.

While the Department of Defense is opposed to H.R. 2748, we have for some time recognized the need for a change in the pay structure for the fire prevention and protection occupation. The current pay structure does result in a reduction in gross pay as an employee moves from a nonsupervisory position up to a supervisory position or from a supervisory position to a higher level supervisory position. The Federal Employees Compensation Reform Act of 1979 (H.R. 4477) would provide a viable means of overcoming this problem, as well as ensuring that Federal firefighters' pay is comparable to that of firefighters in the non-Federal sector.

H.R. 4477 would establish a new subchapter IX of chapter 53 of title 5, United States Code. The new subchapter IX will authorize the Office of Personnel Management, in consultation with the Office of Management and Budget, to establish Special Occupational Services for specific occupations or groups of occupations whenever it is determined that the Government would be significantly handicapped in recruiting a well-qualified work force or in directing the efficient internal management of that work force if the positions concerned were included in the General Schedule. Upon enactment of the Reform Act we would ask the Office of Personnel

Management and the Office of Management and Budget to determine whether or not it would be appropriate to establish a Special Occupational Service for firefighters.

TABLE 1.—*Effect of reducing workweek to limits of H.R. 2748*

Reduce workweek to an average 56-hour workweek.
Retain same salary level for each firefighter as provided in H.R. 2748.
Increase in staffing requirements to maintain the same level of fire protection services.
Increase in salary costs for the Department of Defense are due to the increase in staffing requirements.

	Salary change for each firefighter	
	Prior to H.R. 2748	After H.R. 2748
Basic pay[1]	$11,557	$11,557
Annual premium	2,889	2,889
FLSA OT	1,806	258
Total pay	16,252	14,704
Percent change	.....	−9.5
	Salary cost for Department of Defense	
	Prior to H.R. 2748	After H.R. 2748
Total pay	$16,252	$14,704
X Number of affected employees[2]	9,300	12,150
Total cost	$151,100,000	$178,700,000
Percent change	.....	+18.3

[1] Basic pay is rate for GS–5, step 4, as of August 1979.
[2] Excludes 1,200 of DOD's fire protection and prevention personnel who are already working 56 hours or less per week and would not be affected by H.R. 2748.

TABLE 2.—RATES OF SEPARATION FOR SELECTED OCCUPATIONS IN DOD

Occupation	Population as of Sept. 1977	Number of fiscal year 1978 separations	Percent of Population
Firefighter	10,548	1,561	14.8
Police	1,942	378	19.5
Guard	5,241	1,082	20.6
Clerk stenographer	13,394	2,904	21.7
Secretary	24,171	3,502	14.5
Clerk typist	28,666	7,656	26.7
Supply technician/clerk	25,439	3,317	13.0

Mr. PRICE. This bill would shorten the workweek. We would probably handle that by having firefighters work 24 hours on and then have 2 full days off and this would even out to an average workweek of 56 hours.

Mr. HARRIS. That would include Saturdays and Sundays?

Mr. PRICE. Yes, sir. Straight through the month.

As previously said, the President vetoed it. We uphold that. We continue to oppose the bill. We feel the firefighters are adequately compensated. Although our figures do differ from those presented before, we hold to the requirement for additional personnel as stated in the President's veto message.

Our figures indicate with regard to civilian positions there would be a requirement for an additional 2,800 firefighters with an in-

creased salary cost of approximately $28 million because of the direct impact on the civilian firefighters.

As far as the military goes, we feel it would be administratively unworkable to continue to work the military firefighters the same hours that they work now but we would have to reduce them to comparable hours with civilian firefighters for morale and retention purposes because they work on the same base.

That reduction would cause us to add 650 military and slightly over a thousand civilian firefighters at an added cost of $20 million. We have shown this in table 1. Possibly we have been somewhat conservative. We still feel that our figures are close to the truth.

In discussing the total pay of the firefighters we were given a choice when the 1974 amendments to the Fair Labor Standards Act became law to continue the 72-hour workweek. By doing this we felt we benefited both ourselves and the firefighters. Had we gone to the reduced workweek prescribed by those standards, the total salary of the firefighter would have been progressively reduced, leading to an eventual reduction of 12 percent by 1977 and our salary costs would have risen by 17 percent by 1977.

By retaining that workweek the total firefighters takehome was increased by 12½ percent by 1977 which increased our total costs by 12½ percent instead of 17 percent.

We feel we have little difficulty in obtaining recruits. As has been discussed, our figures don't show separations to the extent that the firefighters figures do. This should be resolved and we will certainly work with OPM on that.

Mr. HARRIS. I would hope that we could have some sort of agreement with the firefighters as to compensation.

Mr. PRICE. We would like that, sir.

This would result in decreased take-home pay to the firefighter.

We do recognize there is some need for change in the pay structure for the fire protection occupations. We call attention to the pending legislation, the Federal Compensation Reform Act of 1979. If this legislation is passed, it would provide available means for straightening this out. Such legislation would authorize OPM and the Office of Management and Budget to establish special occupational services for specific occupations or groups of occupations whenever it is determined that the Government would be significantly handicapped in recruiting a well-qualified work force. It would also lend to the efficient internal management of that work force.

If the act does become law, we would ask the Office of Personnel Management and the Office of Management and Budget to determine whether or not it would be appropriate to have a separate schedule for firefighters.

That concludes my brief statement, sir.

Mr. HARRIS. Thank you very much for your testimony. I think you have touched on the two things that have concerned me: The disparity with regard to the cost estimate and the disparity with regard to the turnover figures.

Does the Navy schedule duty for firefighters during the standby period?

Mr. PRICE. In general; no, sir. The standby period should be up to the individual for study or whatever. There are undoubtedly some situations when an emergency operation such as aircraft operations might intrude on the standby time but in general the firefighters have 8 hours of work, 8 hours of sleep and 8 hours of standby.

Mr. HARRIS. It is your testimony that normal practice within the Navy is not to schedule duty during standby period?

Mr. PRICE. Yes, sir.

Mr. HARRIS. What is the average grade of those firefighters who leave the Government?

Mr. PRICE. I think I would have to provide that answer later, Mr. Chairman. Our turnover figures that are shown in the table include retirement. We should separate that by analysis of our personnel actions to get those who leave the Government for other employment.

Mr. HARRIS. It would be helpful.

[The information follows:]

AVERAGE GRADE OF FIREFIGHTERS (GS-081 SERIES) SEPARATED FROM DOD EMPLOYMENT IN FISCAL YEAR 1978

Type of separation	Number	Average grade
Resignation from Federal employment	501	4.75
Retirement	603	6.55
Transfer to other Federal agencies	200	5.04
Other separations	257	5.21
Total	1,561	5.66

Mr. HARRIS. Would you know what the average grade of individuals who are recruits is?

Mr. PRICE. We usually recruit GS-3, that is without previous experience, but we can recruit at higher levels and we might recruit at GS-4.

Mr. HARRIS. Could you do a computation for me and submit it for the record, the average grade of those leaving and the average grade of those recruited.

[The information follows:]

AVERAGE GRADE OF FIREFIGHTERS ENTERING DOD EMPLOYMENT IN FISCAL YEAR 1978

Type of accession	Number	Average grade
New hires (1st Federal employment)	552	4.02
Reinstatements	92	4.64
Transfers from other Federal agencies	228	4.98
Total	872	4.34

Notes: (1) Average grade upon leaving DOD employment provided above. (2) Figures include only full-time permanent employees. (3) Separations exceed accessions by 689. 411 of the difference is due to a change in on-board strength from 10,548 as of September 30, 1977 to 10,137 as of Sept. 30, 1978. The remaining difference of 278 includes accessions from other occupations within DOD and returns from leave without pay.

Mr. HARRIS. Mr. Dannemeyer.

Mr. DANNEMEYER. No questions.

Mr. HARRIS. Thank you very much for your testimony.

The floor is voting on this draft amendment and we are just about on the second bells. It has been our thought perhaps we could move into markup this morning but in view of the amendment on the floor right now and the increased activity, it would be my suggestion we reschedule markup for next week. Is there any objection to that?

Without objection, we will reschedule the markup.

Thank you very much. The subcommittee is adjourned.

[Whereupon, at 11:30 a.m., the subcommittee was adjourned.]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Honorable James M. Hanley
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D.C. 20515

SEP 14 1979

Dear Mr. Chairman:

This is in reply to the Committee's request for the views of this Office on H.R. 2748, "To amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes."

H.R. 2748 is identical to H.R. 3161 of the 95th Congress, which was vetoed by the President on June 19, 1978. This bill would reduce the workweek of Federal firefighters, without a compensating reduction in the special 25% annual premium they receive based on their current workweek.

In his Veto Message, copy enclosed, the President set forth the factors which make this legislation unacceptable. We believe these factors are as compelling today.

Accordingly, we strongly recommend against favorable consideration of this bill. Enactment of H.R. 2748 would not be in accord with the program of the President.

Sincerely,

James M. Frey
Assistant Director
for Legislative Reference

To the House of Representatives:

I am returning, without my approval, H.R. 3161, a bill which would substantially reduce the workweek for Federal firefighters, while maintaining their pay at nearly the present level. I have three principal objections to this bill. First, this measure would reduce firefighters' workweek without reducing the premium pay which was designed for a longer standby schedule. In effect, it would raise firefighters' total hourly pay by more than 15 percent. If only the basic hourly pay is considered, without overtime pay, the increase is almost 30 percent. I do not believe this is justified, particularly in the light of the 5.5 percent pay cap I have recommended for Federal employees as part of my efforts to hold down inflation. Moreover, the length of the workweek for Federal firefighters must be considered in light of the nature of their duty. Fires tend to be less frequent at Federal installations than in urban areas. Comparatively, there is a very low incidence of fire and there are very few severe fires.

Second, H.R. 3161 would impair the ability of agency heads to manage the work force and regulate the workweek.

Third, H.R. 3161 would require the Department of Defense alone to hire 4,600 additional employees, at an annual cost of $46.7 million, just to maintain existing fire protection. These additional personnel and payroll measures are unacceptable.

I am very proud of the superb record of Federal firefighters at our military installations. I know them to be hard-working and dedicated. The evidence is not compelling, however, that they are unfairly treated in matters of pay and length of workweek. And in extending unwarranted advantages to them, H.R. 3161 offends the ideals of fairness that should guide this administration. I am not prepared to accept its preferential approach.

JIMMY CARTER.

THE WHITE HOUSE, *June 19, 1978.*

United States of America
Office of Personnel Management
Washington D.C. 20415

SEP 13 1979

Honorable James M. Hanley
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D.C. 20515
Dear Mr. Chairman:

This is in response to your request for the views of the Office of Personnel Management on H.R. 2748, a bill "To amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies and for other purposes."

The purpose of H.R. 2748 is to reduce the hours of duty of firefighters in the Federal service without reducing their entitlement to premium pay under title 5, United States Code. In order to accomplish this, the bill would immediately establish an average 56-hour workweek for firefighters and would provide that they be paid, in addition to basic pay, a firefighter premium pay of 25 percent of their basic pay for this average 56-hour weekly tour of duty.

The preponderance of Federal firefighters presently have an average 72-hour weekly tour of duty. This tour of duty consists of three 24-hour shifts, each normally including 8 hours of actual work and 16 hours in a standby status which includes a sleeping period. For this longer than ordinary tour of duty, firefighters receive basic pay and an annual premium pay for standby duty (25 percent of their basic pay) under title 5, United States Code. They are also entitled to an additional amount of overtime pay for this longer tour of duty under the Fair Labor Standards Act.

H.R. 2748 would substantially reduce Federal firefighters' tours of duty while maintaining their pay at nearly the present level.

H.R. 2748 is an identical bill to H.R. 3161 which was vetoed by the President in 1978. In his message to the House of Representatives when he returned H.R. 3161 without his approval, the President cited three principal objections to the bill:

(1) The bill would have reduced firefighters' workweek without reducing their premium pay, which was designed for longer tours of duty. It would have raised firefighters' total hourly pay by more than 15 percent. If only the basic hourly pay was considered, without overtime pay, the increase would have been almost 30 percent. This was not justified, particularly in light of the limitations being imposed on Federal pay as a part of the anti-inflation effort.

(2) The bill would have impaired the ability of agency heads to manage the work force and regulate the workweek.

(3) The bill would have required the Department of Defense alone to hire 4,600 additional employees, at an annual cost of $46.7 million just to maintain existing fire protection.

These same objections would apply to H.R. 2748 this year. Accordingly, the Office of Personnel Management is strongly opposed to the enactment of H.R. 2748.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of H.R. 2748 would not be in accord with the program of the President.

Sincerely yours,

Alan K. Campbell
Director

96TH CONGRESS
1ST SESSION

H. R. 2748

To amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 1979

Mr. HARRIS introduced the following bill; which was referred to the Committee on Post Office and Civil Service

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A BILL

To amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 61 of title 5, United States Code, relating to hours of work, is amended by inserting after section 6101 the following new section:

"§ 6102. Basic workweek of firefighters

"(a) The regularly scheduled administrative workweek of each firefighter shall be an average of 56 hours per week,

computed on the basis of a period of 21 consecutive days. The duration and frequency of work-shifts occurring within such period shall be determined under regulations prescribed by the Office of Personnel Management.

"(b) For the purpose of this section, 'firefighter' means an employee in an Executive agency, the duties of whose position are primarily to perform or to supervise work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. Such term does not include any employee who has a regularly scheduled administrative workweek of 40 hours which is established under section 6101(a)(2)(A) of this title.".

(b)(1) Section 5545 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Each firefighter with a regularly scheduled administrative workweek established under section 6102(a) of this title shall be entitled, in lieu of premium pay provided by other provisions of this subchapter (other than premium pay provided in paragraph (2) of this subsection), to premium pay equal to 25 percent of so much of his annual rate of basic pay as does not exceed the minimum rate of basic pay for GS–10.

"(2) Hours of work officially ordered or approved in excess of the regularly scheduled administrative workweek

established under section 6102(a) of this title are overtime work and shall be paid for in accordance with the rates specified in section 5542 of this title.

"(3) For the purpose of this subsection, 'firefighter' has the meaning given it in section 6102(b) of this title.".

(2) Section 5545(c)(1) of title 5, United States Code, is amended by inserting ", unless subject to subsection (e) of this section," after "shall receive".

(3) Section 5547 of title 5, United States Code, is amended by striking out "sections 5542, 5545(a)–(c), and 5546(a), (b)" and inserting in lieu thereof "sections 5542, 5545(a)–(c) and (e), and 5546(a) and (b)".

(4) Sections 5595(c), 8114(e), 8331(3)(C), and 8704(c) of title 5, United States Code, are each amended by striking out "section 5545(c)(1)" and inserting in lieu thereof "section 5545(c)(1) and (e)(1)".

(c) The analysis of chapter 61 of title 5, United States Code, is amended by inserting after the item relating to section 6101 the following new item:

"6102. Basic workweek of firefighters.".

SEC. 2. The first section of this Act shall take effect at the beginning of the first applicable pay period which begins at least 60 days after the date of the enactment of this Act.

United States of America
Office of Personnel Management Washington, D.C. 20415

OCT 19 1979

Honorable Herbert E. Harris II
Chairman, Subcommittee on Human Resources
Committee on Post Office and Civil Service
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Harris:

As you recall, I testified as the representative of the Office of Personnel Management before your Subcommittee on September 14, 1979, on H.R. 2748, a bill relating to pay and hours of duty of Federal firefighters.

During the question period following my testimony you requested that we provide additional information concerning three matters:

(1) The results of any inquiry or study made by OPM with regard to the contracting out of fire services. In answer to this question, OPM has a very limited role with regard to contracting out in the Federal service and we have not conducted any study concerning this matter.

(2) A review of the difference in figures between the Department of Defense and the International Association of Fire Fighters on the turnover rate for Federal firefighters. A statement on this matter is enclosed and we request that it be inserted in the record of my testimony at line 1117, page 47.

(3) A review of the apparent differences between the Congressional Budget Office's 1978 cost estimate, the President's 1978 veto message, and the Department of Defense's 1979 cost estimate. A statement on this matter is enclosed and we request that it be inserted in the record of my testimony following line 1161, page 49.

Also enclosed is an edited copy of the transcript of my testimony before your Subcommittee.

We hope that this material will be helpful in your deliberations on H.R. 2748.

Sincerely yours,

Raymond C. Weissenborn
Assistant Director
Compensation Planning
and Pay Programs

Enclosures

TURNOVER RATE FOR FEDERAL FIREFIGHTERS

During this hearing the International Association of Fire Fighters (IAFF) has indicated that the turnover rate for Federal firefighters is 23 percent, while the Department of Defense (DOD) has said that the separation rate for Federal civilian firefighters in fiscal year 1978 was 14.8 percent. Mr. Harris has requested that the Office of Personnel Management review this difference in figures and submit for the record its views on which figure is correct.

The Department of Defense separation data for fiscal year 1978 is attached. This data supports the DOD testimony that the separation rate in the Federal civilian firefighter occupation was 14.8 percent for fiscal year 1978.

A further review of the Department of Defense data reveals that the 14.8 percent separation rate for fiscal year 1978 includes all separations: Voluntary, involuntary, and other separations (retirement, transfer to other Federal agencies, leave without pay, and death). If we calculate the figure for voluntary separations (resignations) only, DOD had a 4.7 percent voluntary separation rate for fiscal year 1978. This would be the actual number (501) and percentage of civilian firefighters that left Federal employment at their own volition (not including those who retired). Furthermore, it is reasonable to assume that all of these individuals did not necessarily terminate their employment with the Federal service for the purpose of seeking employment with municipal fire departments. DOD does not have data to indicate why these individuals resigned, but there are numerous other reasons that individuals typically leave Federal service (e.g., return to school, military service, change in career fields, relocate geographically, etc.).

The International Association of Fire Fighters has not provided us with any data to support their testimony that the turnover rate for Federal firefighters is 23 percent. After repeated attempts to obtain this data, my staff was advised that the IAFF drew this 23 percent turnover rate figure from House Report 95-911, February 28, 1978, page 4. We have not been able to identify the original source for that data.

Accordingly, we must conclude that the Department of Defense data, which was obtained from the Defense Manpower Data Center, is an accurate representation of the separation rate for fiscal year 1978.

TURNOVER RATE FOR FIREFIGHTERS IN DOD DURING FY 78

Type of Separation	No. of Separations		Percentage
1. Voluntary Separations Exclusive of Retirements (Resignations)	501		4.7%
2. Involuntary Separations			
a. Discharge	40	.4%	
b. Reduction-in-Force	38	.4%	
c. Termination	12	.1%	
d. Suspension	1	-	
e. Disability Separation	4	-	
	95		.9%
3. Other Separations			
a. Retirement	603	5.7%	
b. Transfer to Other Federal Agencies	200	1.9%	
c. Leave Without Pay	136	1.3%	
d. Death	26	.3%	
	965		9.2%
4. Total	1561		14.8%

SUMMARY

Voluntary Separations	501	4.7%
Involuntary Separations	95	.9%
Other Separations	965	9.2%
Total Separations	1,561	14.8%

Note: All percentages computed on the basis of the 9/30/77 on-board strength of 10,548.

COST ESTIMATES FOR IMPACT OF H.R. 2748

During the hearing there appeared to be some differences with regard to cost estimates for H.R. 2748 (or H.R. 3161, an identical bill vetoed by the President in 1978). The differences centered around the cost estimates cited by the Congressional Budget Office (CBO) on H.R. 3161 in House Report 95-911, February 28, 1978, pages 8 and 9; by the President in his 1978 veto message on H.R. 3161; and by the Department of Defense (DOD) in their testimony on H.R. 2748. The Office of Personnel Management has prepared this analysis of the different cost estimates.

The reason that the CBO's cost estimate of $24.3 million for fiscal year 1979 differs from the projected annual cost of $46.7 million cited in the President's 1978 veto message on H.R. 3161 is that the CBO cost estimate reflects the impact on the payroll for Federal civilian firefighters only, while the figure cited in the President's veto message includes resulting military payroll costs as well.

Brief outlines of the DOD methodology for computing the additional staffing requirements and increased costs for H.R. 2748 and the CBO methodology for computing the same elements for H.R. 3161 are attached. A review of these outlines reveals that the DOD cost estimate of $27.6 million (for the impact of H.R. 2748 for fiscal year 1980 on civilian firefighters only) and the CBO cost estimate of $28.2 million for fiscal year 1980 are very close. Furthermore, the DOD cost estimate for the impact of H.R. 2748 on military firefighter positions of $22.1 million, when added to the cost for civilian firefighters of $27.6 million, results in a total cost estimate of $49.7 million. This total cost estimate for fiscal year 1980 is equivalent to the 1978 cost estimate of $46.7 million, when adjusted for pay increases.

An analysis of the CBO and DOD cost estimates for Federal civilian firefighters is also included as an attachment.

In summary, the figures used by the Congressional Budget Office, by the President in his veto message, and by the Department of Defense are not inconsistent. If we consider the impact of H.R. 2748 on Federal civilian firefighters only, it is estimated that the first year cost would approach $30 million and if, as a matter of personnel policy, the Department of Defense were to make a parallel reduction in the tours of duty of military firefighters as well, the impact would approach $50 million.

Department of Defense
Cost Estimate

A. Impact on Civilian Workforce

Total Civilian Firefighting Personnel	10,500
less Fire Chiefs and Inspectors	1,200
Total Shift Personnel	9,300
less Assistant Fire Chiefs	860
Nonsupervisory Firefighters (including Crew Chiefs)	8,440

Assistant Fire Chiefs After H.R. 2748 — 1,290

Assistant Fire Chiefs Before H.R. 2748	860
Plus 50% 1/	430
Assistant Fire Chiefs After H.R. 2748	1,290

Nonsupervisory Firefighters After H.R. 2748 — 10,851

$$\frac{56}{72} = \frac{8440}{X}$$

X = 10,851

Total Shift Personnel After H.R. 2748 — 12,141

Salary Cost for Shift Personnel 2/

	Before H.R. 2748 GS-5, Step 4	After H.R. 2748 GS-5, Step 4
Total Pay	$16,252	$14,704
x Number of Shift Personnel	9,300	12,150
Total Cost for Shift Personnel	$151.1 million	$178.7 million

Summary for Civilian Workforce

Additional Shift Personnel (430 + 2,411) = 2,841

Increase in Cost for Shift Personnel ($178.7M - $151.1M) = $27.6 million

1/ Increase for civilian Assistant Fire Chiefs is 50 percent because DOD will go from a two-platoon to a three-platoon operation, with one Assistant Fire Chief needed for each platoon.

2/ Cost for civilian firefighters includes salary only. No additional benefits costs are included.

B. Impact on Military Workforce

Total Military Firefighting Personnel	7,557
less Unaffected Personnel	1,609
Total Shift Personnel	5,948

Increase in Shift Personnel — 1,699

$$\frac{72}{56} = \frac{X}{5948}$$

X = 7,647

Shift Personnel After H.R. 2748	7,647
Shift Personnel Before H.R. 2748	5,948
Additional Shift Personnel After H.R. 2748	1,699

Breakdown of New Shift Personnel as Reported by Military Departments

Military	655
Civilian	1,044
	1,699

Increase in Salary Cost for Additional Civilian Firefighters

$14,704
x 1,044
$15.4 million

Increase in Cost for Additional Military Firefighters

	$10,300 3/
x	655
	$ 6.7 million

Summary for Military Workforce

Additional Shift Personnel	= 1,699
Increase in Cost for Shift Personnel ($15.4M + $6.7M)	= $22.1 million

C. Total Impact on DOD Workforce (Civilian and Military Shift Personnel)

Additional Shift Personnel (2,841 + 1,699)	= 4,540
Increase in Cost for Shift Personnel ($27.6M + $22.1M)	= $49.7 million

3/ Average annual cost per military member was provided by Department of the Air Force.

Congressional Budget Office
Cost Estimates 1/

Affected Firefighters (Shift Personnel) 2/

- Number of Federal Civilian Firefighters (GS-081) in grades GS-3, 4, and 5.

GS-3	433
GS-4	2,566
GS-5	4,715
Nonsupervisory Firefighters	7,714

Additional Firefighters (Shift Personnel)

$$\frac{72}{56} = \frac{X}{7,714}$$

X = 9,918

Additional Shift Personnel (9,918 - 7,714) = 2,204

Cost Estimate (FY 78)

	One-Third of the Year	Full Fiscal Year
Estimated Cost (New Firefighters)	$10.4 million	$31.2 million
Estimated Salary Reduction (Current Firefighters)	- 3.7 million	-11.1 million
Net Cost	$ 6.7 million	$20.1 million

- Costs include salaries, benefit payments, and administrative overhead.
- The estimated cost was calculated as follows:

  Step 1--Assume all new firefighters (2,200) to be in grades GS-3 (one-third) and GS-4 (two-thirds).

1/ House Report 95-911 (pages 9 & 10), to accompany H.R. 3161.

2/ U.S. Civil Service Commission Central Personnel Data File, Occupational Survey GS-081, as of September 1977.

Step 2--Compute the cost for each new firefighter; GS-3, Step 1, and GS-4, Step 1. In addition to salary (basic pay, standby duty pay, and FLSA overtime pay), include a 30 percent differential for benefit payments and overhead costs.

Step 3--The estimated cost for new firefighters was computed by multiplying the cost for each new firefighter by the total number of new firefighters in grades GS-3 (one-third) and GS-4 (two-thirds).

Step 4--The net cost was determined by subtracting the estimated salary reduction for current firefighters (reduction in FLSA overtime pay) from the estimated cost for new firefighters.

Note: Subsequent cost estimates are derived by aging the firefighter population for ensuing years.

Summary

- Affected Firefighters = 7,714
- Additional Firefighters = 2,200
- Cost Estimates, by Fiscal Year in Millions of Dollars:

1978 3/	1979	1980	1981	1982
$6.7	$24.3	$28.2	$32.0	$35.1

3/ CBO assumed enactment April 1, 1978, and therefore the Act would be in effect for one-third of fiscal year 1978 (effective 60 days after enactment).

Analysis of Differences Between Congressional Budget Office and Department of Defense Cost Estimates for Federal Civilian Firefighters Only

Number of Shift Personnel

CBO	DOD
7,714	9,300 - 860 Assistant Fire Chiefs 8,440 Nonsupervisory Firefighters
o Civilian firefighters GS-081 in grades GS-3, 4, and 5.	o Nonsupervisory Firefighters, includes an undetermined number of Crew Chiefs in grades GS-6 thru GS-9.

Additional Shift Personnel

- CBO and DOD used the same method to determine the number of additional shift personnel. The higher DOD figure is a result of a larger base number of shift personnel (8,440).
- CBO did not include an additional staffing requirement for Assistant Fire Chiefs (430). This requirement stems from the need to have three platoons for 56-hour tours versus the present requirement for only two platoons for 72-hour tours.

Cost Estimate

- CBO and DOD used two completely divergent methods to calculate cost estimates. However, the resultant net cost estimates are very close under both methods.

  CBO = $28.2 million (FY 80)
  DOD = $27.6 million (FY 80)

- CBO cost estimates are calculated by multiplying the salary and benefits costs for entry level GS-3 and GS-4 positions by the total number of additional shift personnel, one-third new hires at GS-3 and two-thirds new hires at GS-4. Then the savings in FLSA overtime costs for current firefighters is deducted from the total cost for new shift personnel to arrive at the net cost. This is a first year cost estimate. Subsequent cost estimates are derived by aging the firefighter population for ensuing fiscal years.

Note: CBO costs for additional nonsupervisory firefighters should be based solely on GS-4 inputs, the average input level reported by DOD. Furthermore, CBO did not include the costs for additional Assistant Fire Chiefs.

- The DOD cost estimate is the difference in cost between a workforce on 72-hour tours and a workforce on 56-hour tours. The average salary cost used is GS-5, Step 4. This method assumes the same force structure for both populations. This method does not provide a first year cost estimate, but a mid-point (average) cost impact of the proposal based on current year salaries.

Note: The DOD cost estimate does not include a 30 percent differential for benefit payments and overhead costs.

Summary

- The DOD total figure of 9,300 shift personnel appears reasonable. This includes 860 Assistant Fire Chiefs and 8,440 Nonsupervisory Firefighters.

- Based on the larger base for Nonsupervisory Firefighters and the additional Assistant Fire Chiefs, the DOD estimate for additional shift personnel (2,841) is the more accurate projection.

- Both the CBO and DOD cost projection methods have merit. The CBO cost estimate is a first year cost (aged for ensuing years) and the DOD cost estimate is a one-time average cost projection for a level force structure. A revised costing method should include both the DOD additional costs for new Assistant Fire Chiefs and the CBO 30 percent differential for benefits and overhead costs.

STATEMENT OF

KENNETH T. BLAYLOCK, NATIONAL PRESIDENT
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

The American Federation of Government Employees, which represents a significant protion of the federal firefighting workforce under provisions of Title VII of the Civil Service Reform Act of 1978, is pleased to have the opportunity to comment upon legislation (H.R. 2748) to improve the basic workweek of these personnel. Our members who are firefighters follow your deliberations with close attention in the hope that their working conditions may be brought into line with those of their colleagues in the vast majority of non-Federal fire departments across the country.

We will not dwell on the sad history of our efforts to restore equity in work hours for federal firefighting personnel. The need for such legislation to shorten the basic workweek of federal civilian firefighters has been evident since passage of the 1974 amendments to the Fair Labor Standards Act. We supported these improvements in the overtime law as it applied to the federal sector; firefighting personnel, in particular, anticipated long-awaited relief from the exacting 72 hour workweek established by most federal agencies.

Their expectations were short-lived, however. Although municipal firefighters, for example, earn at least $500 more per year for an average 56-hour workweek, the Department of Defense refused to shorten the basic workweek of federal firefighters, arguing that the payment of overtime to existing personnel was more economical than reducing the hours of work and hiring new personnel.

Unfortunately, due to a 1974 key ruling on firefighters' overtime made by the then Civil Service Commission, federal personnel are entitled to only one-half, not one and one-half, times their regular base rate for each hour of overtime exceeding the basic fifty-four hour standard for overtime

compensation in effect. In other words, last year the average Federal firefighter received only $1.83 for each hour of overtime worked, which is less than the standard set for the minimum wage. In addition, should a federal firefighter be called to jury duty, or take one day of military, annual, or sick leave during the 7-day work period, they stand to lose what little overtime pay has been accumulated.

We bring these facts to your attention simply because our members who are engaged in this most hazardous of occupations feel a serious wrong has been done to them. Enactment of HR 2748 would reduce the present 72 hour workweek to 54 hours, with the exception of those firefighters who presently are on a 40 hour week schedule. Existing qualification for full standby premium pay would be unaffected, and most personnel would actually suffer a loss in compensation. In addition, for irregular, unscheduled hours of duty in excess of the basic workweek, firefighters would be entitled to overtime pay.

We believe there are compelling reasons why this bill should be speedily enacted. First, as noted above, the intent of the 1974 amendments to the Fair Labor Standards Act has been circumvented, and federal firefighters are now required to put in longer hours for less money than their colleagues in non-Federal fire departments. Second, in view of the fact that there will be a reduction in FLSA overtime wages upon enactment of the bill, the cost of this legislation will not be excessive. Third, once the length of the workweek for Federal firefighters is brought into line with that of municipal fire companies, it is likely the shockingly high turnover rate of 23% in Federal fire departments might be reduced, leading to a further eventual reduction in costs and an increase in overall productivity.

We would like to cite but one example of the negative impact that the 72 hour workweek is having on the Federal

firefighting workforce. At the Marine Corps base at Quantico, Virginia, the fire department has an authorized strength of 56 personnel. Only 16 of these personnel have served for five years or more. Since January 1, 1978, 22 firefighters have left for other employment, and most have been hired by municipal fire departments. In short, the U.S. taxpayer is now subsidizing what is, in essence, a Federal training program for firefighters.

In endorsing this legislation, we gave also careful consideration to the special conditions prevailing in this occupation, and to existing disparities in hours of work between Federal firefighters and their counterparts at the municipal level.

The typical workweek for the Federal firefighter is now 72 hours, which consists of three 24-hour shifts. Each shift is generally divided into eight hours of actual work and sixteen hours in a standby status, including a designated sleeping period. A wide variety of duties occupies this standby period, and even the sleeping period may be interrupted, not only by fire calls, but by other chores.

A firefighter recently filed an overtime claim with the Comptroller General for watch work performed during periods which were set aside for sleeping during his normal standby hours. This watch duty was being rotated with other firefighters, disrupting the sleep period of the entire platoon, yet the Comptroller General ruled that:

> "...there is no authority for allowance of additional compensation where an employee during his regularly scheduled tour of standby duty is required to perform certain duty which is regarded more in the nature of work than the normal standby duty." (B-178613, July 6, 1973).

It is conditions such as this which impact badly on the morale of Federal firefighters. Theirs is a grave responsibility, as in DoD installations they have complex and difficult functions to discharge which do not come within the scope of responsibilities of the great majority of municipal fire companies. Combustible munitions, chemicals and petroleum, and nuclear products essential to modern

warfare must be properly stored under safety and fire prevention programs requiring careful and constant supervision. The value of the properties in storage now runs to billions of dollars, and aside from the ever-present possibility of accident, there is always the potential for terrorist or enemy attack in case of war or domestic disturbance. All these elements must be taken into consideration as essential elements all fire prevention and fighting plans.

The American taxpayer deserves the benefit of a highly motivated and qualified firefighting workforce. Anything less could prove catastrophic given the hazards and conditions described above. Passage of H.R. 2748 would restore the element of fairness denied Federal firefighters as a result of the implementation of the 1974 FLSA amendments, and in addition immeasurably improve the morale and long term stability of personnel. For this reason, we endorse H.R. 2748 without reservation, and hope that the Congress will move speedily to enact it into law.

Statement of
Kenneth T. Lyons
National President
National Association of
Government Employees

The National Association of Government Employees (NAGE) appreciates this opportunity to submit our views on, and express our support for, H.R. 2748, a bill which would improve the workweek of Federal Fire Fighters. However, before we comment on the bill, we want to thank Representative Harris, the Chairman of this Subcommittee for his unfailing interest in and support for all Federal employees. The fact that he has reintroduced, as H.R. 2748, Fire Fighter legislation that was vetoed last year is only one example of Representative Harris' perseverance in fighting for equitable treatment of Civil Servants.

H.R. 2748 is identical to H.R. 3161 which was vetoed last year. The NAGE supported last year's bill, and we support this year's legislation. However, the decision to continue supporting a 56 hour workweek for Federal Fire Fighters was not an easy one. There is no question that H.R. 2748 will improve the lot of Federal Fire Fighters. However, the NAGE fears that bettering the Fire Fighter workweek may backfire and result in the contracting-out of Federal fire fighting responsibilities. Consequently, our support for H.R. 2748 must be qualified.

However, the need for an improvement in the workweek of Federal Fire Fighters is clear. As the arguments in favor of H.R. 2748 have been well documented in previous hearings, we will let a summary of our position suffice.

- The 23 percent turnover rate for Federal Fire Fighters signals a grave problem that needs remedy.
- The turnover rate is caused, in large part, by the substantially better hours and pay available in municipal fire departments. On the average, municipal Fire Fighters work a 52 hour week compared with 72 hours for Federal Fire Fighters. Starting pay is approximately $2,400 lower for Federal Fire Fighters than municipal Fire Fighters.
- The inequitable pay for Federal Fire Fighters is mainly caused by the fact that the current 72 hour workweek leads to an unwarranted reduction in Fair Labor Standards Act (FLSA) overtime pay. Dividing a week's pay by 72 instead of 40 hours results in an artificially low hourly rate on which to base "time-and-one-half" overtime pay.
- The extensive number of "regularly scheduled" overtime hours worked results in inequitable practices regarding leave pay. When a Federal Fire Fighter takes a week off, the full 72 hours is charged against his or her available leave time. However, his or her pay check for that week does not include the FLSA pay normally received for 18 hours of regularly scheduled overtime.

Limiting Federal Fire Fighters' workweek to 56 hours will address the problems delineated above. As a 56 hour workweek will eliminate the need for most FLSA pay, Federal Fire Fighters would no longer be working such extensive amounts of overtime at artifically reduced overtime rates. In addition, the problem of lowered pay when leave is taken would be solved. Further, a 56 hour workweek will substantially close the gap between the hours of Federal Fire Fighters and the hours of municipal Fire Fighters. Consequently, the continual turnover of Federal Fire Fighters should decrease with the enactment of H.R. 2748.

Despite Administration statements to the contrary, high turnover in the ranks of Federal Fire Fighters is a dangerous situation. The Administration seems to have little concern about the exodus of Federal Fire Fighters to positions in municipal departments because there are many applications for fire fighting positions. However, this stance completely ignores the danger of having Federal fire fighting forces staffed with trainees. All Fire Fighters carry heavy responsibility but, this is especially true of Federal Fire Fighters who must stop and prevent fires in locations ranging from military air strips to nuclear installations. The recent near tragedy at Three Mile Island should provoke serious consideration of the implications of requiring inexperienced Fire Fighters to handle serious emergencies.

We believe that the justification the Administration used to veto last year's bill was inadequate and ill conceived.

The Administration objected to the fact that H.R. 3161 reduced the Fire Fighter workweek without reducing their 25 percent premium pay. However, premium pay is designed as compensation in lieu of night differential and Sunday and holiday pay, as well as overtime. The nature of fire fighting responsibilities will not change with a reduction in the workweek. A 56 hour week would still entail long shifts and irregular hours. Consequently, full premium pay would still be justified.

Further, the Administration alleged that H.R. 3161 could mean a financial windfall for Federal Fire Fighters. In fact, because Fire Fighters will lose most of their FLSA pay under the legislation, their weekly paychecks will be reduced by about nine percent.

President Carter's second objection to H.R. 3161 was based on a fear that a 56 hour workweek would "impair the ability of agency heads to manage the work force and regulate the workweek." We find this statement absurd. The NAGE believes President Carter should concern himself with the management problems resulting from high turnover. To be overly concerned with the limited difficulties of administering employees under a 56 vs. 72 hour workweek, is to take the wrong approach.

The third and final reason for the veto was based on inaccurate figures. The President claimed that "H.R. 3161 would require the Department of Defense alone to hire 4,600 additional employees, at an annual cost of $46.7 million, just to maintain existing fire protection." These estimates are founded on two inaccurate assumptions. One, the estimates suppose that all DoD civil Fire Fighters work a 72 hour week. In fact, approximately 2,800 of DoD's 10,500 civilian Fire Fighters already work 56 or less hours per week. Two, DoD's estimates included the costs of reducing the workweek of Military Fire Fighters. Neither H.R. 3161 nor H.R. 2748 applies to Military personnel. Congressional Budget Office figures indicate that Government-wide only 2,200 additional Fire Fighters would be needed at a cost of $24.3 million. That is a small price to pay for insuring protection of life and property.

The merits of H.R. 2748 are clear. A stable, experienced fire fighting force is essential to guarantee adequate fire protection. The legislation at hand will provide the conditions necessary for retaining our expert Fire Fighters as Civil Servants. Nonetheless, as noted previously, the NAGE does have some reservations about the implications of H.R. 2748.

As the Chairman and members of this Subcommittee well know from the hearings you have recently conducted on the subject, the contracting-out of Federal functions has escalated at an alarming rate in recent years. Concurrently, considerations of cost-effectiveness increasingly have been ignored. The NAGE is concerned that as the hours and pay of Federal Fire Fighters approach comparability with municipal fire departments, Federal Fire Fighting operations could be contracted-out.

The NAGE firmly believes that Federal fire fighting functions belong in-house for they are too vital to be left to the distant managerial control of a private contractor. Further, we are sure that, despite the moderate increase in fire fighting costs that would result from H.R. 2748, an honest cost comparison would still dictate in-house performance of Federal fire fighting operations. However, we do not need to remind this Subcommittee that the above rationale for continuing in-house operation of the Federal fire fighting function can, at present, easily be pushed aside by an agency bent on meeting its personnel ceiling by contracting-out as many functions as possible. Consequently, the NAGE's support for H.R. 2748 is conditional.

To insure that enactment of H.R. 2748 will not result in the contracting-out of Federal fire fighting, our support of H.R. 2748 is contingent upon enactment of H.R. 4717. This bill, also pending in your Subcommittee, would provide for the flexibility in personnel ceilings that is essential for insuring that contracting-out decisions are made on a rational basis.

However, as most Federal Fire Fighters are employed by the DoD, we must note here, as we did in our statement on H.R. 4717, that this legislation does not cover personnel ceilings in the DoD. Consequently, our support of H.R. 4728 is contingent not only upon passage of H.R. 4717, but also on the provision of some flexibility in the personnel ceilings in the DoD. Further, the NAGE urges this Subcommittee to do all in its power to insure fair cost-comparisons and to establish an improved system of appeals on contract decisions.

In conclusion, providing that measures are taken which insure responsible contracting-out decisions, the NAGE gives H.R. 2748 our full endorsement. The protection of life and property is at stake in this legislation, and we, therefore, hope for its speedy enactment.

STATEMENT OF THE AFL-CIO PUBLIC EMPLOYEE DEPARTMENT BEFORE
THE SUBCOMMITTEE ON HUMAN RESOURCES, HOUSE POST OFFICE AND CIVIL
SERVICE COMMITTEE, ON H.R. 2748, FEDERAL FIREFIGHTERS' HOURS

SEPTEMBER 19, 1979

We are happy to present the views of the Public Employee Department, AFL-CIO, with respect to H.R. 2748. We strongly support passage of this legislation and commend the committee on proceeding with this bill.

Federal firefighters are working 72 hours a week as compared to an average of 54 hours per week in many departments, and in some as little as 42 hours per week. This compares to the average workweek of private sector and public employees which has been around 40 hours per week for at least the last third of a century. The effect of such a schedule on these federal firefighters and their families is evidenced by the high rate of turnover in this group of workers.

You will recall that the 95th Congress passed legislation to reduce the federal firefighters' workweek from 72 to 56 hours, protecting their present pay from being reduced by a reduction in the workweek. Unhappily, President Carter vetoed this bill. We think the veto was ill-advised and so support this bill which is identical to the one vetoed.

It is noteworthy that the proposed 56-hour workweek would include working full 24-hour shifts, regardless of weekends or holidays. Such shifts consist of eight hours of active duty and double time on a standby basis; this generally brings the total daily work hours to about 12 to 14. In lieu of overtime pay, federal firefighters are provided a premium pay. They do not receive a night differential or holiday or Sunday pay on any higher basis.

Our analysis of this legislation indicates that it would decrease the average firefighter's weekly paycheck, but we favor this on the basis of a more humane standard of living for the individual worker.

There would be no infringement on the ability of agency heads to manage the workforce, any more than that caused by restrictions in other labor standards or social standards legislation.

We referred above to the high turnover rate among federal firefighters. It is some 23% annually so that, in effect, the federal government, hiring firefighters at a trainee level requiring no previous firefighting experience, is the training school for other fire departments. We question the wisdom of the management decision which produces this result.

Neither would the burden created be undue in terms of cost. The Congressional Budget Office has estimated that some 7700 federal firefighters would be affected, government-wide, by the bill before you.

U.S. House of Representatives
COMMITTEE ON POST OFFICE AND CIVIL SERVICE
SUBCOMMITTEE ON HUMAN RESOURCES
406 CANNON HOUSE OFFICE BUILDING
Washington, D.C. 20515

March 11, 1980

Mr. Edward Preston
Office of Management and Budget
Executive Office Building
Washington, D.C. 20503

Dear Mr. Preston:

I have been provided with the attached chart concerning the proposed workweek reduction for Federal firefighters. I have been informed that this document was prepared by your office and reflects your views on the projected impact of a reduced workweek for Federal firefighters.

I would appreciate your verification that this chart reflects OMB's projected impact on space requirements of a reduced workweek. I would also appreciate a copy of the document to which this chart was an attachment.

Your prompt response to this request will be appreciated.

Sincerely,

HERBERT E. HARRIS II
Chairman
Subcommittee on Human Resources

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

APR 16 1980

Honorable Herbert E. Harris, II
Chairman
Subcommittee on Human Resources
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This letter is in reply to your March 11 inquiry addressed to Mr. Preston concerning a proposed workweek reduction for Federal fire fighters.

The chart enclosed with your letter contains rough estimates, prepared by the Department of Defense at OMB's request, of additional personnel which would be required under a reduced workweek. The document to which it was attached was a simple memorandum of transmittal from DOD in response to our request. The need for this information grew out of a series of discussions we have held with officials of the International Association of Fire Fighters.

As you know, the members of the IAFF long have sought to obtain a reduction in the length of their workweek. A few months ago, OMB Director McIntyre met with IAFF President McClennan and agreed that we would look into the fire fighters' request in order to determine if some way could be found to accomplish their objective. Subsequently, we have explored the matter in further discussions with IAFF representatives and, among others, with DOD, the largest Federal employer of fire fighting personnel. It was in this connection that DOD's estimates were prepared. OMB did not prepare, or even review, the figures involved. While the union officials did not entirely agree with DOD's projections, I understand all agreed on the fundamental fact that the necessary increases would be somewhere near these magnitudes.

In addition to these increases in the number of fire fighters, there would be very substantial additional costs associated with a reduced workweek--even though the IAFF has expressed its willingness to accept some reductions in overtime pay. If the workweek were reduced, the estimated costs involved (depending on how overtime and premium pay reductions are handled) could go as high was $36 million (civilian) and $26 million (military) for a total of some $62 million.

While our discussions with the IAFF were still going on, the President reached his decision to reduce the fiscal 1981 Federal budget. That decision, of course, forced us to conclude that we could not support increased expenditures of the size indicated above at a time when we were asking agencies to take severe cuts in funds and personnel. Consequently, we have informed the IAFF that, for the foreseeable future, we reluctantly must suspend consideration of their proposals.

We know of your concern about the fire fighter workweek, and hope that, when economic conditions permit, we may consider more positive action. I trust this information is helpful to you.

Sincerely,

Hubert L. Harris, Jr.
Assistant Director

DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON, D.C. 20350

IN REPLY REFER TO

Ser 141D4/700618

19 JUN 1980

The Honorable Herbert E. Harris II
U.S. House of Representatives
Chairman, Subcommittee on Human
Resources
Committee on Post Office and Civil
Service
Washington, D.C. 20515

Dear Mr. Harris:

This is in reply to your letter of 20 May 1980 regarding testimony on H.R. 2748 presented on 14 September 1979. You have asked what the basis is for stating that a reduction in work hours for civilian firefighters "would require a commensurate reduction in military firefighters work hours."

While there is no regulation which requires both military and civilian firefighters work hours to be the same, sound management practice would dictate that the work requirements be similar. Most activities currently schedule military firefighters in a manner to complement the civilian firefighting force. To reduce civilian firefighters hours and not those of the military counterparts would create severe morale problems in the organization. Additionally, variation in the work schedules for the two groups could result in decreased effectiveness. For these reasons it is considered essential that both military and civilian firefighters would have the same work hours.

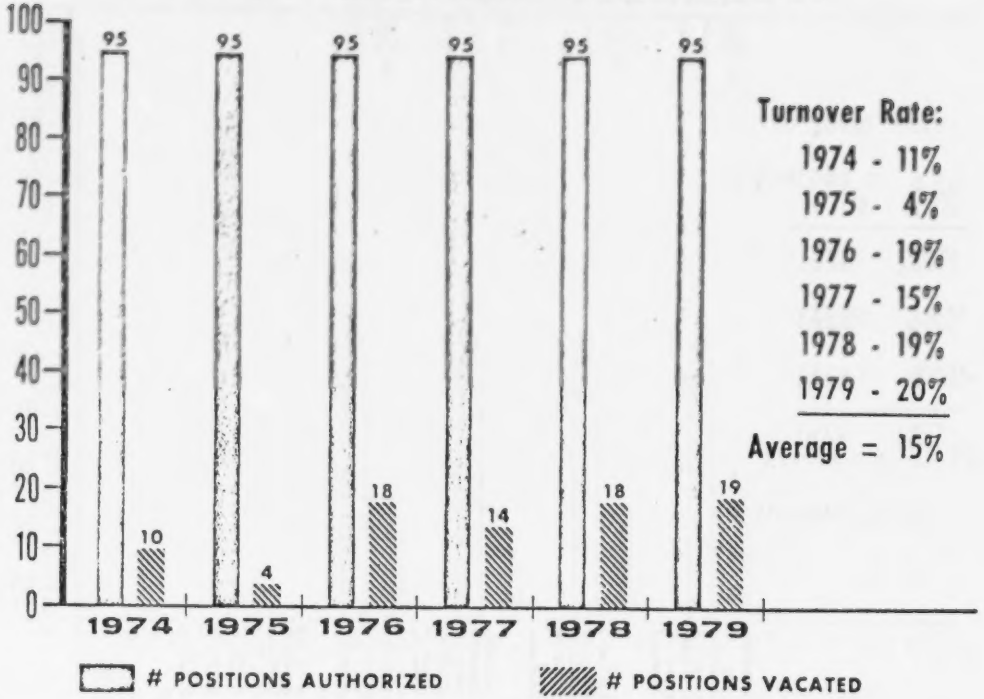
We hope that this information will be of assistance to you.

Sincerely,

Dorothy M. Maletzke

DOROTHY M. MALETZKE
Acting Director
Civilian Personnel Division

N.A.S. ALAMEDA FIRE DEPT.

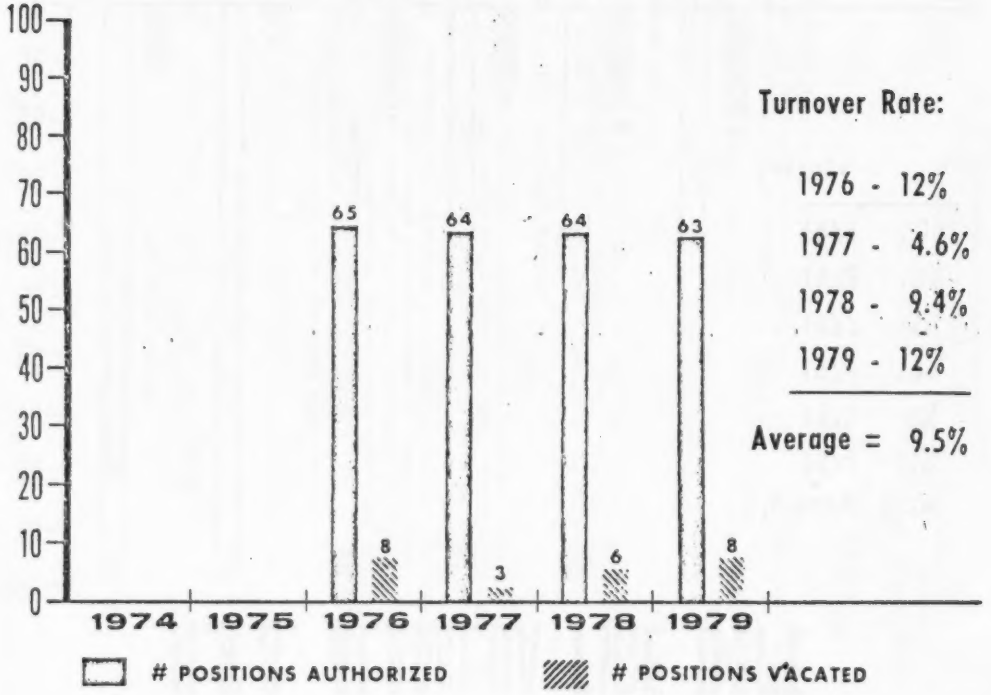


Turnover Rate:

1974 - 11%
1975 - 4%
1976 - 19%
1977 - 15%
1978 - 19%
1979 - 20%

Average = 15%

MARE ISLAND FIRE DEPT.



Turnover Rate:

1976 - 12%

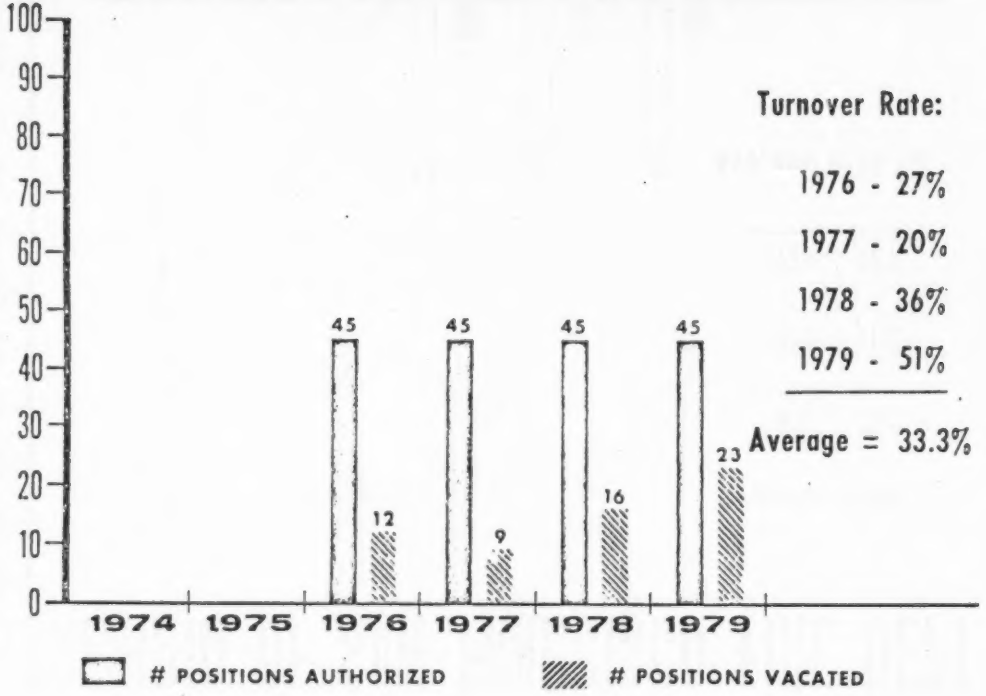
1977 - 4.6%

1978 - 9.4%

1979 - 12%

Average = 9.5%

MOFFETT FIELD FIRE DEPT.



Turnover Rate:

1976 - 27%

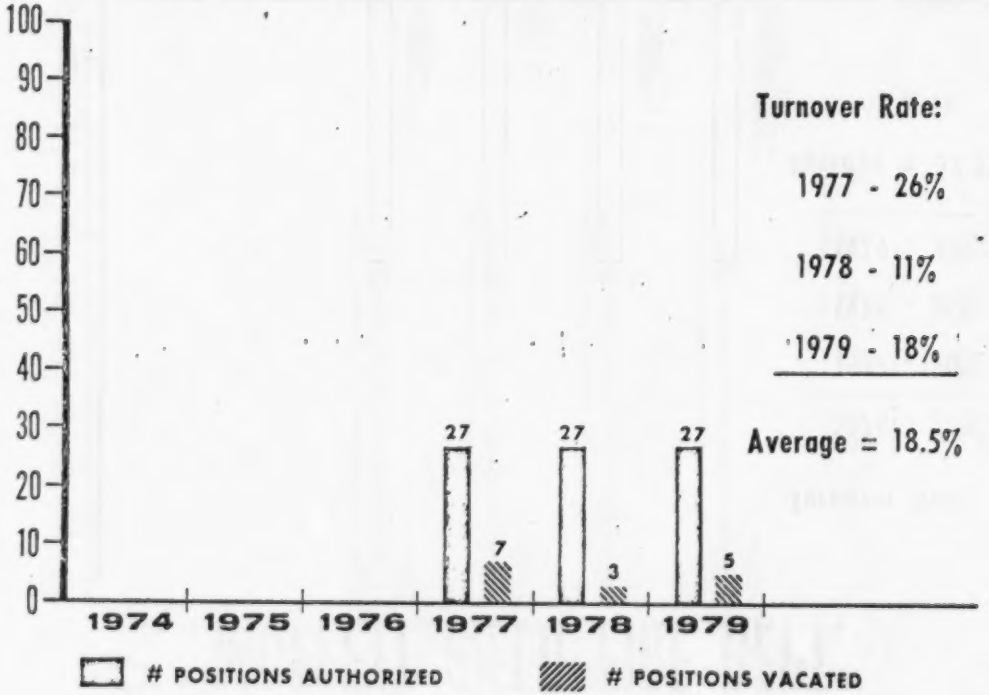
1977 - 20%

1978 - 36%

1979 - 51%

Average = 33.3%

PRESIDIO OF SAN FRANCISCO FIRE DEPT.



Turnover Rate:

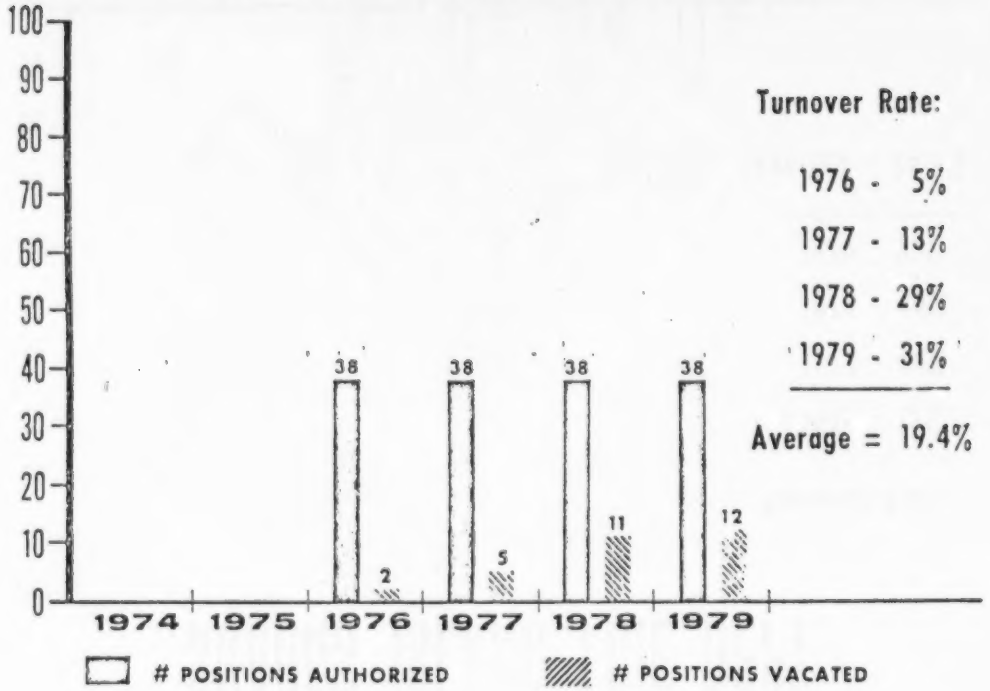
1977 - 26%

1978 - 11%

1979 - 18%

Average = 18.5%

TREASURE ISLAND FIRE DEPT.



Turnover Rate:

1976 - 5%

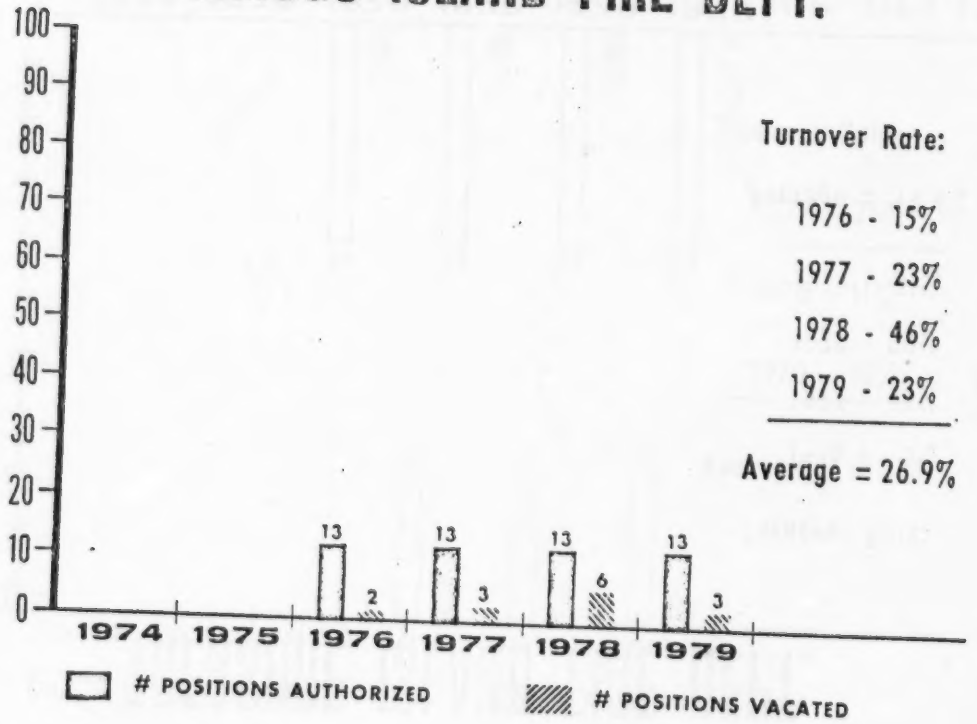
1977 - 13%

1978 - 29%

1979 - 31%

Average = 19.4%

SKAGGS ISLAND FIRE DEPT.



Turnover Rate:

1976 - 15%

1977 - 23%

1978 - 46%

1979 - 23%

Average = 26.9%